International Labour Conference, 88th Session, 2000

APPLICATION

INTERNATIONAL LABOUR CONVENTIONS

INTERNATIONAL LABOUR OFFICE · GENEVA

International Labour Conference
88th Session 2000

Report III
(Part 1A)

Third item on the agenda:
Information and reports on the application
of Conventions and Recommendations

Report of the Committee of Experts on the Application of Conventions and Recommendations

(articles 19, 22 and 35 of the Constitution)

General Report and observations concerning particular countries

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Madagascar	**Part Two IB: Observations on Conventions Nos. 29, 87, 100, 120, 127** *Direct requests on Conventions Nos. 5, 26, 29, 81, 100, 111, 122, 12* **Part Two III. Observation on Submission**
Malawi	**Part One. General Report, paragraphs nos. 88, 123** *General direct request* *Direct requests on Conventions Nos. 100, 149* *Direct request on Submission*
Malaysia	**Part One. General Report, paragraphs nos. 82, 88, 93** *General direct request* **Part Two IB: Observation on Convention No. 98** *Direct request on Convention No. 29* *Direct request on Submission*
Peninsular Malaysia	**Part One. General Report, paragraph no. 82** *General direct request*
Sabah	**Part One. General Report, paragraph no. 82** *General direct request*
Sarawak	**Part One. General Report, paragraph no. 82** *General direct request*

Mali	**Part One. General Report, paragraphs nos. 89, 119** **Part Two IA: General observation** **Part Two IB: Observation on Convention No. 87** *Direct requests on Conventions Nos. 26, 29, 81, 100, 105, 111, 135* **Part Two III. Observation on Submission**
Malta	**Part One. General Report, paragraphs nos. 82, 93** *General direct request* **Part Two IB: Observation on Convention No. 87** *Direct requests on Conventions Nos. 96, 100, 111, 117, 127, 129, 136, 149* *Direct request on Submission*
Mauritania	**Part One. General Report, paragraphs nos. 82, 88** *General direct request* **Part Two IB: Observations on Conventions Nos. 29, 81, 87, 102, 111, 118** *Direct requests on Conventions Nos. 3, 29, 81, 102, 111, 118, 122* **Part Two III. Observation on Submission**
Mauritius	**Part Two IB: Observations on Conventions Nos. 17, 81, 98, 105** *Direct requests on Conventions Nos. 11, 42, 81, 108, 144, 160* *Direct request on Submission*
Mexico	**Part Two IB: Observations on Conventions Nos. 87, 111, 169** *Direct requests on Conventions Nos. 17, 96, 111, 115, 169* *Direct request on Submission*
Republic of Moldova	**Part One. General Report, paragraph no. 123** **Part Two IB: Observations on Conventions Nos. 87, 95** *Direct requests on Conventions Nos. 81, 87, 88, 98, 103, 105, 111, 122, 129, 135, 144, 154* **Part Two III. Observation on Submission**
Mongolia	**Part One. General Report, paragraph no. 89** **Part Two IA: General observation** *Direct requests on Conventions Nos. 103, 122* **Part Two III. Observation on Submission**
Morocco	**Part Two IB: Observations on Conventions Nos. 11, 26, 30, 81, 98, 122** *Direct requests on Conventions Nos. 12, 26, 81, 111*
Mozambique	**Part Two IB: Observations on Conventions Nos. 17, 111** *Direct requests on Conventions Nos. 17, 18, 98, 105, 111, 122* *Direct request on Submission*
Myanmar	**Part Two IB: Observations on Conventions Nos. 17, 26, 29, 52, 87** *Direct requests on Conventions Nos. 42, 63* *Direct request on Submission*

Namibia	*General direct request* **Part Two IB: Observation on Convention No. 87** *Direct request on Convention No. 98* *Direct request on Submission*
Nepal	**Part One. General Report, paragraph no. 82** *General direct request* **Part Two IB: Observations on Conventions Nos. 100, 111** *Direct requests on Conventions Nos. 98, 100, 111, 144* *Direct request on Submission*
Netherlands	*General direct request* **Part Two IB: Observations on Conventions Nos. 98, 111, 122** *Direct requests on Conventions Nos. 81, 98, 111, 129, 160* *Direct request on Submission*
Aruba	**Part One. General Report, paragraphs nos. 82, 93** *General direct request* **Part Two IIB: Observations on Conventions Nos. 122, 137, 138, 144, 145** *Direct requests on Conventions Nos. 2, 8, 12, 25, 29, 87, 89, 94, 95, 101, 105, 121, 135, 138, 142, 146*
Netherlands Antilles	**Part One. General Report, paragraph no. 82** *General direct request* *Direct requests on Conventions Nos. 8, 81*
New Zealand	**Part Two IB: Observations on Conventions Nos. 11, 17, 44, 81, 111** *Direct requests on Conventions Nos. 17, 29, 53, 81*
Tokelau	*Direct request on Convention No. 111*
Nicaragua	**Part Two IB: Observations on Conventions Nos. 1, 8, 12, 30, 138, 139** *Direct requests on Conventions Nos. 17, 24, 25, 63, 98, 110, 111, 117, 122, 136, 138, 139, 144*
Niger	**Part One. General Report, paragraphs nos. 82, 93** *General direct request* **Part Two IB: Observation on Convention No. 87** *Direct requests on Conventions Nos. 81, 111, 119, 131, 138, 142, 156, 158* *Direct request on Submission*
Nigeria	**Part One. General Report, paragraphs nos. 88, 93, 123** **Part Two IB: Observations on Conventions Nos. 87, 100, 105** *Direct requests on Conventions Nos. 19, 26, 29, 59, 88, 98, 100, 133, 155* *Direct request on Submission*
Norway	**Part Two IB: Observations on Conventions Nos. 98, 108, 122** *Direct requests on Conventions Nos. 8, 81, 129, 148, 149, 154, 168*
Oman	*Direct request on Submission*

Pakistan	**Part Two IB: Observations on Conventions Nos. 29, 87, 96, 98, 105, 111, 144, 159** *Direct requests on Conventions Nos. 11, 18, 27, 87, 105* **Part Two III. Observation on Submission**
Panama	**Part One. General Report, paragraph no. 88** **Part Two IB: Observations on Conventions Nos. 8, 29, 68, 98, 105** *Direct requests on Conventions Nos. 8, 32, 73, 88, 100, 110, 111, 117, 126, 160* *Direct request on Submission*
Papua New Guinea	**Part One. General Report, paragraph no. 119** *General direct request* **Part Two IB: Observation on Convention No. 98** *Direct requests on Conventions Nos. 105, 122* **Part Two III. Observation on Submission**
Paraguay	**Part Two IB: Observations on Conventions Nos. 29, 81, 87, 98, 105, 169** *Direct requests on Conventions Nos. 81, 87, 169* *Direct request on Submission*
Peru	**Part Two IB: Observations on Conventions Nos. 1, 56, 71, 98, 122** *Direct requests on Conventions Nos. 59, 105, 111, 151, 156* *Direct request on Submission*
Philippines	**Part One. General Report, paragraph no. 88** **Part Two IB: Observations on Conventions Nos. 89, 98, 105, 141** *Direct requests on Conventions Nos. 88, 100, 105, 110, 111, 122, 149, 159* *Direct request on Submission*
Poland	*Direct requests on Conventions Nos. 22, 29, 68, 81, 96, 98, 115, 144, 147, 149, 151*
Portugal	**Part Two IB: Observations on Conventions Nos. 8, 81, 98, 111, 122, 147, 156** *Direct requests on Conventions Nos. 17, 18, 23, 81, 108, 111, 117, 147, 155, 156, 171*
Qatar	*Direct request on Convention No. 111* *Direct request on Submission*
Romania	**Part Two IB: Observations on Conventions Nos. 98, 111** *Direct requests on Conventions Nos. 8, 81, 88, 98, 111, 117, 122, 129, 144, 154*
Russian Federation	**Part One. General Report, paragraph no. 88** **Part Two IB: Observations on Conventions Nos. 95, 108** *Direct requests on Conventions Nos. 47, 100, 103, 122, 142, 149* *Direct request on Submission*

Rwanda	**Part One. General Report, paragraph no. 123** **Part Two IB: Observations on Conventions Nos. 11, 12, 17, 26, 87, 98, 105, 111** *Direct requests on Conventions Nos. 81, 87, 100, 105, 111, 132* *Direct request on Submission*
Saint Kitts and Nevis	*Direct request on Submission*
Saint Lucia	**Part One. General Report, paragraphs nos. 82, 93, 119, 123** **Part Two IA: General observation** **Part Two IB: Observations on Conventions Nos. 17, 87, 98, 100** *Direct requests on Conventions Nos. 5, 19, 29, 94, 95, 97, 111* **Part Two III. Observation on Submission**
Saint Vincent and the Grenadines	*General direct request* *Direct request on Convention No. 11* *Direct request on Submission*
San Marino	*Direct request on Convention No. 105* *Direct request on Submission*
Sao Tome and Principe	**Part One. General Report, paragraphs nos. 82, 93, 119** **Part Two IA: General observation** **Part Two IB: Observations on Conventions Nos. 18, 88** *Direct requests on Conventions Nos. 17, 81, 87, 98, 100, 111, 144, 159* **Part Two III. Observation on Submission**
Saudi Arabia	*General direct request* *Direct requests on Conventions Nos. 1, 30, 81, 105* *Direct request on Submission*
Senegal	**Part One. General Report, paragraph no. 119** *General direct request* **Part Two IB: Observations on Conventions Nos. 87, 105** *Direct requests on Conventions Nos. 5, 26, 29, 87, 100, 102, 111, 121, 122* **Part Two III. Observation on Submission**
Seychelles	**Part One. General Report, paragraphs nos. 88, 119** **Part Two IB: Observation on Convention No. 8** *Direct requests on Conventions Nos. 5, 8, 29, 87* **Part Two III. Observation on Submission**
Sierra Leone	**Part One. General Report, paragraphs nos. 82, 93, 119** **Part Two IA: General observation** **Part Two IB: Observations on Conventions Nos. 8, 17, 29, 59, 88, 98, 105, 111, 119, 125, 144** *Direct requests on Conventions Nos. 26, 29, 95, 99, 100, 101, 111, 126* **Part Two III. Observation on Submission**

Singapore	**Part Two IB: Observations on Conventions Nos. 88, 98** *Direct requests on Conventions Nos. 8, 81* *Direct request on Submission*
Slovakia	**Part One. General Report, paragraphs nos. 82, 93** *General direct request* *Direct requests on Conventions Nos. 12, 17, 29, 88, 89, 105, 122, 142, 148, 155, 159, 160* *Direct request on Submission*
Slovenia	**Part One. General Report, paragraph no. 93** *Direct requests on Conventions Nos. 98, 100, 102, 103, 106, 121, 122, 142, 148, 155, 156, 159, 161, 162* *Direct request on Submission*
Solomon Islands	**Part One. General Report, paragraphs nos. 82, 93, 119, 123** **Part Two IA: General observation** **Part Two IB: Observation on Convention No. 8** *Direct request on Convention No. 29* **Part Two III. Observation on Submission**
Somalia	**Part One. General Report, paragraphs nos. 82, 119, 123** **Part Two IA: General observation** **Part Two III. Observation on Submission**
South Africa	*Direct request on Convention No. 98* *Direct request on Submission*
Spain	**Part Two IB: Observations on Conventions Nos. 1, 30, 44, 88, 100, 105, 111, 122, 131, 144** *Direct requests on Conventions Nos. 8, 96, 111, 115, 117, 148, 155, 156, 158* **Part Two III. Observation on Submission**
Sri Lanka	**Part Two IB: Observations on Conventions Nos. 11, 81, 98, 100, 103, 135, 160** *Direct requests on Conventions Nos. 5, 81, 100, 103, 108, 135, 144, 160* *Direct request on Submission*
Sudan	*General direct request* **Part Two IB: Observations on Conventions Nos. 29, 98** *Direct requests on Conventions Nos. 117, 122* **Part Two III. Observation on Submission**
Suriname	**Part Two IB: Observation on Convention No. 122** *Direct requests on Conventions Nos. 81, 88, 98, 105, 154* **Part Two III. Observation on Submission**

Swaziland	**Part One. General Report, paragraphs nos. 82, 93, 119** *General direct request* **Part Two IB: Observations on Conventions Nos. 29, 87, 98** *Direct requests on Conventions Nos. 59, 81, 87, 89, 96, 100, 111, 144, 160* **Part Two III. Observation on Submission**
Sweden	**Part One. General Report, paragraphs nos. 82, 93** *General direct request* **Part Two IB: Observations on Conventions Nos. 121, 122, 155, 161** *Direct requests on Conventions Nos. 100, 111, 115, 147, 148, 149, 155, 157, 158, 160, 161, 164* *Direct request on Submission*
Switzerland	**Part Two IB: Observation on Convention No. 150** *Direct requests on Conventions Nos. 81, 162, 168*
Syrian Arab Republic	**Part One. General Report, paragraphs nos. 82, 119** *General direct request* **Part Two IB: Observations on Conventions Nos. 1, 19, 30, 87, 96, 98, 105, 106, 118** *Direct requests on Conventions Nos. 63, 81, 111, 136, 144* **Part Two III. Observation on Submission**
Tajikistan	**Part One. General Report, paragraph no. 88** *General direct request* *Direct requests on Conventions Nos. 14, 29, 47, 52, 87, 98, 100, 111, 115, 122, 126, 142* *Direct request on Submission*
United Republic of Tanzania	**Part One. General Report, paragraphs nos. 82, 93** *General direct request* **Part Two IB: Observations on Conventions Nos. 17, 29, 98, 105, 134, 135** *Direct requests on Conventions Nos. 17, 29, 59, 63, 98, 105, 137, 142, 148, 149* **Part Two III. Observation on Submission**
Tanganyika	**Part Two IB: Observation on Convention No. 88**
Zanzibar	**Part One. General Report, paragraph no. 82** **Part Two IA: General observation**
Thailand	**Part Two IB: Observation on Convention No. 127** *Direct request on Convention No. 88* *Direct request on Submission*
The former Yugoslav Republic of Macedonia	**Part One. General Report, paragraphs nos. 82, 93, 123** **Part Two IA: General observation** **Part Two IB: Observation on Convention No. 87** *Direct request on Convention No. 87* *Direct request on Submission*

Togo	**Part Two IB: Observation on Convention No. 87** *Direct requests on Conventions Nos. 29, 100, 111, 144* *Direct request on Submission*
Trinidad and Tobago	**Part One. General Report, paragraphs nos. 82, 93** *General direct request* **Part Two IB: Observations on Conventions Nos. 98, 105** *Direct requests on Conventions Nos. 19, 29, 111* *Direct request on Submission*
Tunisia	*General direct request* **Part Two IB: Observations on Conventions Nos. 55, 122, 127** *Direct requests on Conventions Nos. 88, 117, 127, 142* *Direct request on Submission*
Turkey	**Part Two IB: Observations on Conventions Nos. 26, 42, 88, 96, 98, 118, 122** *Direct requests on Conventions Nos. 100, 127, 142, 144, 151*
Turkmenistan	**Part One. General Report, paragraphs nos. 82, 123** *General direct request* **Part Two III. Observation on Submission**
Uganda	**Part One. General Report, paragraph no. 93** *General direct request* **Part Two IB: Observations on Conventions Nos. 17, 98, 105, 154** *Direct requests on Conventions Nos. 5, 11, 29, 122, 162* **Part Two III. Observation on Submission**
Ukraine	**Part Two IB: Observations on Conventions Nos. 95, 98** *Direct requests on Conventions Nos. 98, 111, 115, 126, 142, 144, 149, 154* *Direct request on Submission*
United Arab Emirates	**Part Two IB: Observation on Convention No. 81** *Direct requests on Conventions Nos. 1, 81* *Direct request on Submission*
United Kingdom	**Part Two IB: Observations on Conventions Nos. 29, 98, 105, 115, 122** *Direct requests on Conventions Nos. 29, 68, 98, 105, 115, 142, 148, 151, 160* *Direct request on Submission*
Anguilla	**Part One. General Report, paragraph no. 93** **Part Two IIB: Observations on Conventions Nos. 8, 17** *Direct requests on Conventions Nos. 59, 148*
Bermuda	**Part Two IIB: Observation on Convention No. 17**
British Virgin Islands	*Direct requests on Conventions Nos. 8, 59*
Falkland Islands (Malvinas)	**Part Two IIB: Observation on Convention No. 8** *Direct request on Convention No. 17*

Gibraltar	**Part Two IIB: Observation on Convention No. 42** *Direct requests on Conventions Nos. 29, 59, 100, 142*
Guernsey	*Direct requests on Conventions Nos. 98, 142*
Isle of Man	*Direct requests on Conventions Nos. 81, 98, 122, 151*
Jersey	*Direct request on Convention No. 81*
Montserrat	**Part Two IIB: Observation on Convention No. 8**
St. Helena	*Direct request on Convention No. 108*
United States	*Direct request on Convention No. 105*
Uruguay	**Part One. General Report, paragraphs nos. 82, 93** *General direct request* **Part Two IB: Observations on Conventions Nos. 63, 81, 95, 111, 121, 131, 149, 151, 155** *Direct requests on Conventions Nos. 81, 111, 121, 130, 148, 149, 156, 159, 161* **Part Two III. Observation on Submission**
Uzbekistan	**Part One. General Report, paragraphs nos. 82, 89** **Part Two IA: General observation** **Part Two III. Observation on Submission**
Venezuela	**Part Two IB: Observations on Conventions Nos. 1, 22, 87, 95, 98, 122, 155** *Direct requests on Conventions Nos. 22, 87, 95, 111, 117, 144, 149, 156, 158* **Part Two III. Observation on Submission**
Viet Nam	*Direct requests on Conventions Nos. 14, 27*
Yemen	**Part One. General Report, paragraphs nos. 82, 93, 119** *General direct request* **Part Two IB: Observation on Convention No. 98** *Direct requests on Conventions Nos. 19, 105, 111, 122, 156, 158* **Part Two III. Observation on Submission**
Yugoslavia	**Part Two IA: General observation**
Zambia	**Part Two IB: Observations on Conventions Nos. 95, 122** *Direct requests on Conventions Nos. 11, 17, 29, 98, 100, 111, 136, 144, 148, 149, 150, 158, 159* *Direct request on Submission*
Zimbabwe	*Direct requests on Conventions Nos. 129, 144* **Part Two III. Observation on Submission**

PART ONE

General Report

GENERAL REPORT

I. Introduction

1. The Committee of Experts on the Application of Conventions and Recommendations, appointed by the Governing Body of the International Labour Office to examine the information and reports submitted under articles 19, 22 and 35 of the Constitution by States Members of the International Labour Organization on the action taken with regard to Conventions and Recommendations held its 70th Session in Geneva from 25 November to 10 December 1999. The Committee has the honour to present its report to the Governing Body.

2. The composition of the Committee is as follows:

Mr. Anwar Ahmad Rashed AL-FUZAIE (Kuwait),

> Professor of Private Law of the University of Kuwait; Deputy Vice-President of the Research University of Kuwait; attorney; member of the International Court of Arbitration of the International Chamber of Commerce (ICC); member of the Higher Consultative Committee on the Application of Islamic Law (Palace of the Emir of Kuwait); former Director of Legal Affairs of the Municipality of Kuwait; former Adviser to the Embassy of Kuwait (Paris).

Ms. Janice R. BELLACE (United States),

> Samuel Blank Professor, Professor of Legal Studies and Management, and Associate Dean of the Wharton School, University of Pennsylvania; President, Singapore Management University; Senior Editor, Comparative Labor Law and Policy Journal; member of the Executive Board of the US branch of the International Society of Labour Law and Social Security; member of the Public Review Board of the United Automobile, Aerospace and Agricultural Implements Workers' Union; former secretary of the Section on Labor Law, American Bar Association.

Mr. Prafullachandra Natvarlal BHAGWATI (India),

> Former Chief Justice of India; former Chief Justice of the High Court of Gujarat; former Chairman, Legal Aid Committee and Judicial Reforms Committee, Government of Gujarat; former Chairman, Committee on Juridicare, Government of India; former Chairman of the Committee appointed by the Government of India for implementing legal aid schemes in the country; member of the International Committee on Human Rights of the International Law Association; member of the Editorial Committee of Reports of the Commonwealth; Ombudsman for the national newspaper *Times of India*; Chairman of the Advisory Board of the Centre for Independence of Judges and Lawyers, Geneva; Vice-President of "El Taller";

Chairman of the Standing Independent Group for scrutinizing and monitoring mega power projects in India; member of the United Nations Human Rights Committee; member of the International Panel of Eminent Persons for investigating causes of genocide in Rwanda by the OAU; Regional Adviser to the High Commissioner for Human Rights for the Asia Pacific Region.

Ms. Laura COX, QC (United Kingdom),

LL.B., LL.M. of the University of London; Barrister-at-Law, specializing in employment law, discrimination and human rights; Recorder; Head of Cloisters Chambers, Temple, London; Chairperson of the Bar Council Equal Opportunities Policy Committee; Bencher of the Inner Temple; one of the founding Lawyers of Liberty (formerly the National Council for Civil Liberties); member of the Council of the Independent Human Rights Organisation JUSTICE; member of the Industrial Law Society; Vice-President of the Institute of Employment Rights; member of the Specialist Bar Associations for Employment Law, Industrial Injuries, Professional Negligence and Public and Administrative Law; member of the Association of Personal Injury Lawyers.

The Right Honourable Sir William DOUGLAS, PC, KCMG (Barbados),

Former Ambassador; former Chief Justice of Barbados; former Chairman, Commonwealth Caribbean Council of Legal Education; former Chairman, Inter-American Juridical Committee; former Judge of the High Court of Jamaica.

Ms. Blanca Ruth ESPONDA ESPINOSA (Mexico),

Doctor of Law; Professor of International Public Law at the Law Faculty of the National Autonomous University of Mexico; former President of the Senate of the Republic (1989) and of the Foreign Relations Committee; former President of the Population and Development Committee of the Chamber of Deputies and member of the Labour and Social Security Committee; former President of the Inter-American Parliamentary Group on Population and Development and former Vice-President of the Global Forum of Spiritual and Parliamentary Leaders; member of the National Federation of Lawyers and of the Lawyers' Forum of Mexico; recipient of the award for Juridical Merit "the Lawyer of the Year (1993)"; former Director-General of the National Institute for Labour Studies; former Commissioner of the National Migration Institute and former editor of the Mexican Labour Review.

Ms. Robyn A. LAYTON, QC (Australia),

Barrister-at-Law; Director, National Rail Corporation; Chairperson of the Human Rights Committee of the Law Society of South Australia; former Commissioner on Health Insurance Commission; former chairperson of the Australian Health Ethics Committee of the National Health and Medical Research Council; former Honorary Solicitor for the South Australian Council for Civil Liberties; former Solicitor for the Central Aboriginal Land Council; former Chairman of the South Australian Sex Discrimination Board; former Judge and Deputy President of the South Australian Industrial Court and Commission; former Deputy President of the Federal Administrative Appeals Tribunal.

Ms. Ewa LETOWSKA (Poland),

Professor of Civil Law (Institute of Legal Studies of the Polish Academy of Sciences); former parliamentary ombudsman; Justice, Highest Administrative Court; member of the Helsinki Committee; member of the International Commission of Jurists; member of the Polish Academy of Arts and Sciences; member of the Academy of Comparative Law, Paris.

Mr. Sergey Petrovitch MAVRIN (Russian Federation),

Professor of Labour Law (Law Faculty of the St. Petersburg State University); Doctor of Law; Deputy Dean for International Affairs; Chief of the Labour Law Department; Director of the Interregional Association of Law Schools.

Baron Bernd von MAYDELL (Germany),

Professor of Civil Law, Labour Law and Social Security Law; Director of the Max Planck Institute for Foreign and International Social Law (Munich); President of the German Section of the International Society of Labour Law and Social Security.

Mr. Cassio MESQUITA BARROS (Brazil),

Independent lawyer specializing in labour relations (São Paulo); Titular Professor of Labour Law at the Law School of the public University of São Paulo and the Law School of the private Pontifical Catholic University of São Paulo; Founder and President of the Centre for the Study of International Labour Standards of the University of São Paulo; Professor *honoris causa* of the IKA University of Peru; Academic Adviser, San Martin de Porres University (Lima); winner of the medal for "Honra ao Merito de Trabalho" awarded by Decree of the President of the Republic for a contribution to the development of labour law; winner of the medal for "Honra ao Merito Judiciario do Trabalho" awarded by the Higher Labour Tribunal for his contribution to the administration of justice; honorary member of the Association of Labour Lawyers; Honorary President of the "Asociación Iberoamericana de Derecho del Trabajo y Seguridad Social" (Buenos Aires, Argentina); Honorary President of the "Academia Nacional do Direito do Trabalho" (Rio de Janeiro) (composed of experts in Brazilian labour law); member of the International Academy of Law and Economy (São Paulo); member of the Standing Committee on Social Rights, the advisory body to the Ministry of Labour; Vice-Director of the Faculty of Law of the University of São Paulo, elected by the academic community in October 1998.

Mr. Benjamin Obi NWABUEZE (Nigeria),

LLD (London); Hon. LLD (University of Nigeria); Senior Advocate of Nigeria; Laureate of the Nigerian National Order of Merit; former Professor of Law at the University of Nigeria; former Professor and Dean of the Faculty of Law at the University of Zambia; former member of the Governing Council, Nigerian Institute of International Affairs; Fellow of the Nigerian Institute of Advanced Legal Studies; former member, Council of Legal Education; former Minister of Education for Nigeria; former Constitutional Adviser to the Government of Kenya (1992), Ethiopia (1992) and Zambia (1993).

Mr. Edilbert RAZAFINDRALAMBO (Madagascar),

Honorary First President of the Supreme Court of Madagascar; former President of the High Court of Justice; former Professor of Law at the University of Madagascar and at the Malagasy Institute for Judiciary Studies; former Arbitrator of the ICSID and of the International Civil Aviation Organization; former member of the International Council for Commercial Arbitration; former member of the International Court of Arbitration of the International Chamber of Commerce; former Judge of the Administrative Tribunal of the ILO; Alternate Chairman of the Staff Committee of Appeals, African Development Bank; former Vice-Chairman of the United Nations International Law Commission.

Mr. Miguel RODRIGUEZ PIÑERO Y BRAVO FERRER (Spain),

Doctor of Law; President of the Second Section of the Council of State (Legal, Labour and Social Matters); Professor of Labour Law; Doctor *honoris causa* of the University of Ferrara (Italy); President Emeritus of the Constitutional Court; President of the Spanish Association of Labour Law and Social Security; member of the European Academy of Labour Law, the Ibero-American Academy of Labour Law and the Andalusian Academy of Social Sciences and the Environment; Director of the review *Relaciones laborales*; President of the SIGLO XXI Club; former President of the National Advisory Commission on Collective Agreements and President of the Andalucian Industrial Relations Council; former Dean of the Faculty of Law of the University of Seville; former Director of the University College of La Rábida.

Mr. Amadou SÔ (Senegal),

Honorary President of the Council of State; Judge of the Constitutional Court.

Mr. Boon Chiang TAN (Singapore),

BBM(L), PPA, LLB (London), Dip. Arts; Barrister-at-Law and Solicitor, Singapore; former President of the Industrial Arbitration Court of Singapore; former member of the Court and Council of the University of Singapore; former Vice-President (Asia) of the International Society of Labour Law and Social Security.

Mr. Jean-Maurice VERDIER (France),

Professor Emeritus at the University of Paris X; Honorary President of the University of Paris X; Honorary Dean of the Faculty of Law and Economics; former Director of the Institute for Research on Enterprises and Industrial Relations of the University of Paris X (associate of the National Centre for Scientific Research); former Director of the Institute of Labour Social Sciences, University of Paris I; Vice-President of *Libre Justice*, the French section of the International Commission of Jurists; former Professor at the Faculties of Law and Economics at Tunis (1956-61) and Algiers (1965-68); former President and Honorary President of the International Society of Labour Law and Social Security; former President and Honorary President of the French Association of Labour Law and Social Security.

Mr. Budislav VUKAS (Croatia),

Professor of Public International Law at the University of Zagreb, Faculty of Law; member of the International Tribunal for the Law of the Sea; member of the Institute of International Law; member of the Permanent Court of Arbitration; member of the OSCE Court of Conciliation and Arbitration; member of the International Council of Environmental Law; member of the Commission on Environmental Law of the International Union for Conservation of Nature and Natural Resources.

Mr. Toshio YAMAGUCHI (Japan),

Honorary Professor of Law at the University of Tokyo, Professor of Law at Kanagawa University; President of the National Port Development Council; former Chairman of the Central Labour Relations Commission of Japan; former member of the Executive Committee of the International Society of Labour Law and Social Security; full member of the International Academy of Comparative Law.

3. The Committee elected Sir William DOUGLAS as its Chairperson and it elected Mr. E. RAZAFINDRALAMBO as Reporter of the Committee.

Working methods

4. In pursuance of its terms of reference, as revised by the Governing Body at its 103rd Session (Geneva, 1947), the Committee was called upon to examine:

(i) the annual reports under article 22 of the Constitution on the measures taken by Members to give effect to the provisions of the Conventions to which they are parties, and the information furnished by Members concerning the results of inspections;

(ii) the information and reports concerning Conventions and Recommendations communicated by Members in accordance with article 19 of the Constitution;

(iii) information and reports on the measures taken by Members in accordance with article 35 of the Constitution.

5. The Committee, after an examination and evaluation of the above reports and information, drew up its present report, consisting of the following three parts: Part One is the General Report in which the Committee reviews general questions concerning international labour standards and related instruments and their implementation. Part Two contains observations concerning particular countries on the application of ratified Conventions (see section I and paragraphs 77 to 107 below), on the application of Conventions in non-metropolitan territories (see section II and paragraphs 77 to 107 below), and on the obligation to submit instruments to the competent authorities (see section III and paragraphs 108 to 120 below). Part Three, which is published in a separate volume (Report III (Part 1B)) consists of a General Survey on the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) and the Tripartite Consultation (Activities of the International Labour Organisation) Recommendation, 1976 (No. 152), on which governments were requested to submit reports under article 19 of the ILO Constitution.

6. In carrying out its task, which consists of indicating the extent to which the situation in each State appears to be in conformity with ratified Conventions and the obligations undertaken by that State by virtue of the ILO Constitution, the Committee has followed the principles of independence, objectivity and impartiality set forth in its previous reports. It has continued to apply the working methods recalled in its 1987 report.[1] A spirit of mutual respect, cooperation and responsibility has consistently prevailed in the Committee's relations with the International Labour Conference and its Committee on the Application of Standards, whose proceedings the Committee takes fully into consideration, not only in respect of general matters concerning standard-setting activities and supervisory procedures, but also in respect of specific matters concerning the way in which States fulfil their standards-related obligations.

7. In this context, the Committee again welcomed the participation of the Chairperson of its 69th Session as an observer in the general discussion of the Committee on the Application of Standards of the 87th Session of the International Labour Conference (June 1999). It noted the request by the abovementioned Committee for the Director-General to repeat this invitation for the 88th Session of the International Labour Conference (June 2000). The Committee was pleased to accept the invitation.

8. During the last ten years, the workload of the Committee has increased, both in quantity and complexity. This necessarily has affected the length and content of its report. Believing that its report only has value if it is read and understood particularly by governments, employers' and workers' representatives, the Committee considered the impact of this trend. Accordingly, the Committee initiated a review of its own working methods and of the way its report is presented. The Committee intends that in future its reports should be presented in a style which is more accessible and in a form which is easier to read and comprehend. The Committee will continue this examination in future sessions with the aim of providing the wider community of readers a heightened understanding of the guarantees and practical application of Conventions from the information presented in the Committee's comments.

9. The Chairperson of the 69th Session of the Committee of Experts invited the Employer and Worker Vice-Chairpersons of the Committee on the Application of Standards of the 87th Session of the International Labour Conference to jointly pay a visit to this Committee at its present session. Both accepted this invitation and discussed with the Committee in a special session.

II. General

Membership of the Organization

10. Since the Committee's last session, the number of member States of the ILO has remained unchanged at 174.

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[1] International Labour Conference, 73rd Session, 1987, Report III (4A), pp. 17-19, paras. 37-49.

New standards adopted by the Conference in 1999

11. The Committee welcomed the unanimous adoption at the 87th Session (June 1999) of the International Labour Conference of the Worst Forms of Child Labour Convention (No. 182) and Recommendation (No. 190), 1999.

12. No Conventions entered into force in 1999.

Policy on standards

13. The Committee notes that, following the examination by the Working Party on Policy regarding the Revision of Standards, to date the Governing Body has taken decisions on a total of 147 international labour Conventions and 76 Recommendations. The Conventions are grouped in three main categories: Conventions of which ratification is to be promoted, Conventions to be revised, and obsolete Conventions. The invitation made to member States to ratify certain Conventions may be accompanied, where appropriate, by an invitation to denounce the corresponding earlier Conventions. At the 276th Session (November 1999) of the Governing Body, the Working Party emphasized the importance of following up these decisions.

Ratifications and denunciations

Ratifications

14. The list of ratifications by Convention and by country[2] indicates a total of 6,568 ratifications as at 31 December 1998. From 1 January 1999 to the end of the Committee's session on 10 December 1999, 115 ratifications had been received from 47 countries, bringing the total to 6,683.

Denunciations accompanied by the ratification of a revising Convention

15. Since 1 January 1999, the Director-General has registered 23 denunciations accompanied by the ratification of a revising Convention, in response to the Governing Body's recommendation in this respect regarding policy on standards.

Denunciations not accompanied by the ratification of a revising Convention

16. Denunciations not accompanied by the ratification of another revising Convention were registered from the following countries:

- **Albania** denounced the Inspection of Emigrants Convention, 1926 (**No. 21**), in full consultation with the most representative employers' and workers' organizations, after "having considered the time and circumstances when the abovementioned Convention was ratified, and having considered that the present day's emigration is no more like that specified in the Convention".
- **Belgium** denounced the Recruiting of Indigenous Workers Convention, 1936 (**No. 50**).

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[2] International Labour Conference, 87th Session, Geneva, 1999, Report III (Part 2).

- **Finland** denounced the Hours of Work (Commerce and Offices) Convention, 1930 (**No. 30**). The Government made the following declaration: "the denunciation of the Convention is necessary because the Finnish Working Hours Act (605/1996) does not completely fulfil all the requirements of the Convention. In certain cases, in periodic work and when the employer and the employee have agreed on flexible working hours, the hours of work can exceed ten hours a day. In addition the Act does not in any way qualify to grant the temporary exceptions as prescribed by the Convention. The Finnish National ILO Committee is in favour of the denunciation".
- **Mauritius** denounced the Contracts of Employment (Indigenous Workers) Convention, 1939 (**No. 64**) and the Penal Sanctions (Indigenous Workers) Convention, 1939 (**No. 65**), having received legal advice that these instruments were of no relevance to Mauritius, since no citizen of Mauritius can be considered as indigenous. Consequently, the Government also decided, for the same reason, not to ratify the Indigenous and Tribal Peoples Convention, 1989 (No. 169), following these denunciations.
- **Netherlands** denounced the Maintenance of Migrants' Pension Rights Convention, 1935 (**No. 48**). According to the Government "the reason for denunciation lies in Article 10 of the Convention, which provides for the residence requirement to be lifted in relation to acquired rights and hence imposes an export obligation. Neither the nationality nor the place of residence of the claimant is relevant. Benefits may be exported to claimants resident in the territory of a State party *regardless of their nationality*. Benefits may be paid to claimants who are nationals of a State party *regardless of their place of residence*. This obligation … is at odds with the objective of the Export of Benefits (Restrictions) Act" according to which "entitlement to social insurance benefits is subject to the condition that the claimant must be resident in the Netherlands or have been living in the country for more than three months. An exception may be made to this principle of territoriality if provision is made under an international instrument for benefit payments to be exported. … The denunciation of ILO Convention No. 48 does not mean, however, that persons whose benefit entitlements were protected under the Convention now no longer enjoy that protection. The social security schemes of the Netherlands and of the States party to the Convention … are now coordinated under Regulation (EEC) 1408/71", by bilateral Conventions that "provide the same guarantees in the field of social security as were provided by ILO Convention No. 48". The decision to denounce was taken after consultation with employers' and workers' organizations.

Declarations of application without modifications

17. The **Netherlands** made a declaration on behalf of the *Netherlands Antilles* of the application without modification of the Working Conditions (Hotels and Restaurants) Convention, 1991 (**No. 172**).

18. Portugal made declarations on behalf of *Macau*, before becoming a Special Administrative Region of the People's Republic of **China** on 20 December 1999, of the application without modifications of the following Conventions: Hours of Work (Industry) Convention, 1919 (**No. 1**); the Night Work of Young Persons (Industry)

Convention, 1919 (**No. 6**); Unemployment Indemnity Convention, 1920 (**No. 8**); the Weekly Rest (Industry) Convention, 1921 (**No. 14**); the Workmen's Compensation (Accidents) Convention, 1925 (**No. 17**); the Workmen's Compensation (Occupational Diseases) Convention, 1925 (**No. 18**); the Equality of Treatment (Accident Compensation) Convention, 1925 (**No. 19**); Seamen's Articles of Agreement Convention, 1926 (**No. 22**); Repatriation of Seamen Convention, 1926 (**No. 23**); the Minimum Wage-Fixing Machinery Convention, 1928 (**No. 26**); the Marking of Weight (Packages Transported by Vessels) Convention, 1929 (**No. 27**); the Forced Labour Convention, 1930 (**No. 29**); Food and Catering (Ships' Crews) Convention, 1946 (**No. 68**) the Certification of Ships' Cooks Convention, 1946 (**No. 69**); the Medical Examination (Seafarers) Convention, 1946 (**No. 73**); the Certification of Able Seamen Convention, 1946 (**No. 74**); the Freedom of Association and Protection of the Right to Organise Convention, 1948 (**No. 87**); the Employment Service Convention, 1948 (**No. 88**); the Accommodation of Crews Convention (Revised), 1949 (**No. 92**); Migration for Employment Convention (Revised), 1949 (**No. 97**); the Right to Organise and Collective Bargaining Convention, 1949 (**No. 98**); the Equal Remuneration Convention, 1951 (**No. 100**); the Abolition of Forced Labour Convention, 1957 (**No. 105**); the Weekly Rest (Commerce and Offices) Convention, 1957 (**No. 106**); the Seafarers' Identity Documents Convention, 1958 (**No. 108**); the Discrimination (Employment and Occupation) Convention, 1958 (**No. 111**); the Radiation Protection Convention, 1960 (**No. 115**); the Hygiene (Commerce and Offices) Convention, 1964 (**No. 120**); the Employment Policy Convention, 1964 (**No. 122**); the Tripartite Consultation (International Labour Standards) Convention, 1976 (**No. 144**); the Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (**No. 148**); and the Occupational Safety and Health Convention, 1981 (**No. 155**); Termination of Employment Convention, 1982 (**No. 158**).

Notification of an application with modification

19. The Director-General has registered a notification from **China** concerning the application with modification of the Minimum Age Convention, 1973 (**No. 138**) to the *Special Administrative Region of Hong Kong*.

Constitutional and other procedures

20. The Committee had been informed of the decisions taken since its last session by the Governing Body in cases where the Governing Body had recourse to the constitutional procedures in respect of complaints, representations and other procedures.

A. Complaints submitted under article 26 of the ILO Constitution

Complaint against Myanmar

21. Last year the Committee had noted with interest the report of the Commission of Inquiry appointed under article 26 of the Constitution of the ILO to examine the observance by **Myanmar** of the Forced Labour Convention, 1930 (No. 29), which had completed its work on 2 July 1998. The report was sent to the Government of **Myanmar** on 27 July and was published on 20 August 1998. At its 273rd Session (November 1998) the Governing Body had taken note of the Commission's report and the Government's communication under article 29, paragraph 2, of the Constitution; it also had asked the Director-General to present a progress report at its 274th Session (March 1999). The Committee notes that at that session the Governing Body asked the Director-General to provide a further progress report on 21 May. It was also decided to include the question of the application of article 33 of the Constitution on the agenda of the 276th Session of the Governing Body (November 1999). The Governing Body decided to pursue, in March 2000, the question of including a discussion of this point on the agenda of the 88th Session of the Conference in June 2000. Finally, the Committee also notes that at the 87th Session of the International Labour Conference (June 1999) the Conference adopted a resolution under the terms of which the Government of **Myanmar** should cease to benefit from any technical cooperation or assistance from the ILO, except for the purpose of direct assistance to implement immediately the recommendations of the Commission of Inquiry, until such time as it has implemented the said recommendations. "The Committee in its observation notes that the Government has continued its brutal imposition of forced labour even after the Commission of Inquiry had provided its report. The Committee in its observation therefore urges the Government to halt the scourge of forced labour and implement the recommendations of the Commission of Inquiry."

Complaint against Colombia

22. The Committee had noted in its previous report that the International Labour Conference at its 86th Session (June 1998), in accordance with article 26 of the ILO Constitution, had received a complaint which had been filed by 26 trade union members alleging non-observance by **Colombia** of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98). The Committee was informed that the Governing Body, at its 274th Session (March 1999), had decided to postpone to its 276th Session (November 1999) the decision as to the establishment of a commission of inquiry. At its June 1999 Session, the Committee on Freedom of Association had requested the Government to furnish a detailed report prior to 1 September 1999 so as to enable it to present a new report on the merits of the complaint and the cases pending to the Governing Body at its November 1999 Session (see 316th Report, paragraph 10). At its November 1999 session, the Governing Body took note of the agreement concluded between the Government and the workers' organizations of **Colombia** on receiving a direct contacts mission consisting of two representatives of the Director-General of the ILO who will visit the country and communicate their report to the Committee on Freedom of Association at its session in March 2000. At its session in June 2000, the Governing Body will decide whether or not to establish a commission of inquiry.

B. Representations submitted under article 24 of the ILO Constitution

23. The following representations were declared receivable:

- Representation made by the Central Unitary Workers' Union (CUT) alleging non-observance by ***Colombia*** of the Indigenous and Tribal Peoples Convention, 1989 (No. 169) (276th Session, November 1999);

- Representation made by the General Federation of Trade Unions of the Republic of Moldova alleging non-observance by the ***Republic of Moldova*** of the Protection of Wages Convention, 1949 (No. 95) (276th Session, November 1999);
- Representation made by the New Zealand Trade Union Federation alleging non-observance by ***New Zealand*** of the Forced Labour Convention, 1930 (No. 29) (275th Session, June 1999).

24. The report of a tripartite committee was adopted for the following representations:

- Representation made by the Bolivian Central of Workers (COB) alleging non-observance by ***Bolivia*** of the Indigenous and Tribal Peoples Convention, 1989 (No. 169) (274th Session, March 1999);
- Representation made by the Union of Autonomous Trade Unions of Bosnia and Herzegovina alleging non-observance by ***Bosnia and Herzegovina*** of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (276th Session, November 1999);
- Representation made by the College of Teachers of Chile A.G. alleging non-observance by ***Chile*** of the Old-Age Insurance (Industry, etc.) Convention, 1933 (No. 35) and the Invalidity Insurance (Industry, etc.) Convention, 1933 (No. 37) (274th Session, March 1999);
- Representation made by Dansk Magisterforening alleging non-observance by ***Denmark*** of the Employment Policy Convention, 1964 (No. 122) (274th Session, March 1999);
- Representation made by the Association of Salaried Employees in the Air Transport Sector (ASEATS) and the Association of Cabin Crew at Maersk Air (ACCMA) alleging non-observance by ***Denmark*** of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (275th Session, June 1999);
- Representation made by the National Federation of Workers' Councils (NFWC) alleging non-observance by ***Hungary*** of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and the Employment Policy Convention, 1964 (No. 122) (275th Session, June 1999);
- Representation made by the Radical Trade Union of Metal and Associated Workers alleging non-observance by ***Mexico*** of the Indigenous and Tribal Peoples Convention, 1989 (No. 169) (276th Session, November 1999).

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25. The Committee noted the discussion by the Governing Body, at its 276th Session (November 1999), on the revision of the procedure for the examination of representations submitted under article 24 of the ILO Constitution. Following this discussion, it was decided to include this issue in the broader context of the reflection on the Organization's standard-setting policy, which will be undertaken by the Governing Body next year, except that which concerns harmonizing the rules relating to the confidentiality of the Governing Body's procedure; precise proposals for the revision of this procedure will be made at its 277th Session (March 2000) concerning lifting the confidentiality and strengthening the implementation of article 25 of the Constitution.

C. Special procedures concerning freedom of association

26. At each of its last meetings (March, June and November 1999), the Committee on Freedom of Association had before it an average of some 140 cases concerning 62 countries from all parts of the world, for which it presented interim or final conclusions, or for which the examination was adjourned pending the arrival of information from governments (313th, 314th, 315th, 316th, 317th, 318th and 319th Reports). Many of these cases have been before the Committee on several occasions. Moreover, since the last meeting of the Committee of Experts, some 70 new cases have been submitted to the Committee on Freedom of Association. Missions concerning cases pending before the Committee on Freedom of Association visited the **Republic of Korea** and **Estonia**.

27. The Committee on Freedom of Association drew the attention of the Committee of Experts to the legislative aspects of the following cases: Nos. 1773 (**Indonesia**), 1793 and 1935 (**Nigeria**), 1900 (**Canada/Ontario**), 1906 (**Peru**), 1916 (**Colombia**), 1958 (**Denmark**), 1931 and 1967 (**Panama**), 1975 (**Canada**), 1981 (**Turkey**), 1989 (**Bulgaria**), 1993 (**Venezuela**), 1996 (**Uganda**) and 2038 (**Ukraine**).

Functions in regard to other international instruments of universal and regional character

A. United Nations treaties concerning human rights

28. The Office regularly sends written reports and submits oral information, in accordance with existing arrangements, to the various bodies responsible for the application of United Nations Conventions that are relevant to the ILO's mandate. These bodies constitute the supervisory machinery established by the United Nations to examine reports which governments are required to submit at regular intervals on each of the United Nations instruments that they have ratified. Since the Committee's last meeting, the Office has actively participated in the work of the bodies supervising the following treaties:

- the International Covenant on Economic, Social and Cultural Rights (two sessions, reported on ten countries);
- the International Covenant on Civil and Political Rights (three sessions, reported on 16 countries);
- the Convention on the Elimination of All Forms of Discrimination against Women (one session, reported on eight countries);
- the International Convention on the Elimination of All Forms of Racial Discrimination (one session, reported on 14 countries); and
- the United Nations Convention on the Rights of the Child (three sessions, reported on 17 countries).

The Office was also represented at the 10th (May 1999) *Meeting of persons chairing the human rights treaty bodies* to discuss closer cooperation between the UN treaty bodies and the ILO and, in particular, how the treaty bodies would make better use of the detailed information provided in the ILO reports. In addition, the Office was represented at the Workshop (May 1999) for Chairpersons of the UN Treaty Bodies on Gender Integration in the Human Rights System, organized jointly by the United Nations Division for the Advancement of Women and the United Nations High Commissioner for Human Rights.

B. European treaties

European Code of Social Security and its Protocol

29. In accordance with the supervisory procedure established under Article 74(4) of the Code, and the arrangements made between the ILO and the Council of Europe, the Committee of Experts examined 16 reports on the application of the European Code of Social Security and, as appropriate, its Protocol. It noted that the States parties to the Code and the Protocol continue in large measure to apply them. At the sitting in which the Committee examined the reports on the European Code of Social Security and its Protocol, the Council of Europe was represented by Mr. John Murray, Executive Secretary of the European Committee for Social Cohesion (CDCS). The conclusions of the Committee regarding these reports will be sent to the Council of Europe.

30. In addition, a representative of the ILO took part, as technical adviser, in the meeting of the Committee of Experts on Standard-Setting Instruments in the field of social security, held in Strasbourg (France) in July 1999, to examine the application of these instruments on the basis of the conclusions of this Committee. The Committee of Experts on Standard-Setting Instruments, which is now the competent body within the Council of Europe, endorsed the conclusions of the Committee of Experts.

European Social Charter

31. In the context of its collaboration with the Council of Europe, representatives of the ILO participated in the course of 1999, in an advisory capacity, in accordance with article 26 of the European Social Charter, in several sessions of the European Committee of Social Rights, which is responsible for supervising the application of the Charter.

32. Furthermore, since the Committee's last meeting, the **Czech Republic** and **Hungary** have ratified the European Social Charter; **France, Italy, Romania** and **Slovenia** have ratified the European Social Charter (Revised); the **Czech Republic** has also ratified the Additional Protocol to the European Social Charter and the Protocol amending the European Social Charter; **France** has ratified the Additional Protocol to the European Social Charter providing for a system of collective complaints, and **Slovenia** accepted it in application of the provisions of the European Social Charter (Revised).

Collaboration with other international organizations

Cooperation in the field of standards with the United Nations and the specialized agencies

33. In the context of the collaboration established with other international organizations on questions concerning the supervision of the application of universal instruments relating to subjects of common interest, copies of the reports received under article 22 of the Constitution were forwarded to the United Nations, specialized agencies, and intergovernmental organizations with which the ILO has entered into special arrangements for this purpose.

34. Thus, in accordance with established practice, copies of the reports received on the Radiation Protection Convention, 1960 (No. 115), were forwarded for comment to the International Atomic Energy Agency (IAEA). Copies of the reports on the Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117), were transmitted to the United Nations (UN), the United Nations Food and Agriculture Organization (FAO), the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the United Nations Centre for Human Rights; reports on the Prevention of Accidents (Seafarers) Convention, 1970 (No. 134) and on the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147) to the International Maritime Organization (IMO); reports on the Rural Workers' Organisations Convention, 1975 (No. 141) to FAO, the United Nations, and the United Nations Centre for Human Rights; reports on the Human Resources Development Convention, 1975 (No. 142) to UNESCO; reports on the Nursing Personnel Convention, 1977 (No. 149) to the World Health Organization (WHO); and finally, reports on the Indigenous and Tribal Peoples Convention, 1989 (No. 169) to FAO, UNESCO, WHO, the United Nations, the Inter-American Indian Institute of the Organization of American States and to the United Nations Centre for Human Rights.

35. Representatives of these organizations were invited to attend the sittings of the Committee of Experts in which the Conventions in question were discussed.

Matters relating to human rights

36. The Committee will recall that the Governing Body decided, at its March-April 1995 session, to collect information on the ratification situation of the seven ILO Conventions dealing with fundamental human rights (Conventions Nos. 29 and 105, 87 and 98, 100 and 111, and 138) and, at its subsequent sessions, examined reports collating the replies of member States to the Director-General's letter calling for their universal ratification. The Governing Body has also examined reports of the Office's assistance to the member States for the ratification and application of these instruments. The campaign has been a great success, with more than 150 new ratifications or confirmations of ratifications previously applicable. The campaign continues, and the Office has been notified that a number of other ratifications are likely in the near future. The campaign has now been extended to cover also the Worst Forms of Child Labour Convention, 1999 (No. 182).

37. In the context of the follow-up to the Fourth World Conference on Women held in Beijing in 1995, the Office has been actively preparing for the Special Session of the United Nations General Assembly entitled "Women 2000: Gender Equality, Development and Peace for the 21st Century" to review the progress made and the obstacles to the implementation of the Beijing Platform of Action, and to formulate further initiatives for action.

38. ~~In the~~ context of strengthening its technical advisory services on human rights, the Office has maintained collaboration with the United Nations through the Office of the High Commissioner for Human Rights. The Office has responded with written replies to the numerous requests for information received from the High Commissioner for Human Rights. It has also – through its International Training Centre in Turin – taken part in UN workshops on international human rights instruments reporting and has participated in joint briefing sessions with other United Nations agencies for country or thematic rapporteurs.

39. The Office took part actively in the 55th (March-April 1999) Session of the United Nations Commission on Human Rights, and the 51st (August 1999) Session of the United Nations Sub-Commission on Promotion and Protection of Human Rights (formerly the Sub-Commission on Prevention of Discrimination and Protection of Minorities), as well as in meetings of several of their subsidiary organs, in particular the Sub-Commission's Working Groups on Indigenous Populations and on Contemporary Forms of Slavery, which took place throughout the year, providing written and oral information on relevant ILO standards, procedures and activities.

40. The Office took an active part in the discussions of the Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime on additional legal instruments against trafficking in persons (March 1999, Vienna) and submitted substantive information on the issue.

41. The Committee notes with interest that following a first briefing session held in 1997 on the ILO's human rights work, the Office held another session in February 1999, immediately before the session of the United Nations Commission on Human Rights. It notes that these briefing sessions are expected to continue at regular intervals in the future.

42. Following the General Assembly's proclamation of 1994-2004 as the International Decade of the World's Indigenous People, the Office has continued to contribute to the Decade by organizing its own events and by collaborating with the Office of the High Commissioner for Human Rights. The Office is providing technical support to a Danish-funded project to promote the rights of indigenous and tribal peoples within the framework of relevant ILO standards, in particular Convention No. 169, and is also continuing a number of other activities in this regard.

Questions concerning the application of Conventions

Application of the Forced Labour Convention, 1930 (No. 29)

43. The Committee refers to paragraphs 70 and 71 of its General Report of last year, in which it indicated, in relation to *Article 2(2)(c) of Convention No. 29*, that the question of prisoners being, in the words of the Convention, "hired to or placed at the disposal of private individuals, companies or associations" merited fresh attention. Since the responses to the general observations of last year are to be sent in 2000, the Committee intends to address this important issue in its next report.

Application of Conventions on child labour

44. The Committee notes with great interest that the International Labour Conference unanimously adopted on 17 June 1999 the Worst Forms of Child Labour Convention, 1999 (No. 182), and Recommendation No. 190. It also notes that the Director-General has immediately launched a worldwide campaign for the ratification of Convention No. 182, which has already borne fruit in the first two ratifications (**Seychelles** and **Malawi**), and that this Convention will thus enter into force on 19 November 2000.

45. Ratification is of course not an end in itself, but a manifestation of a State's international commitment and willingness to account for any allegation of non-observance. It is the Committee's sincere hope that the supervisory mechanism of ILO standards, including the Committee's examination of the application of the Conventions by individual ratifying States, will contribute to the advancement of the global cause expressed in the new instruments – the elimination of the worst forms of child labour as a priority.

46. The Committee notes, however, that according to the Preamble to Convention No. 182 the new Convention on the worst forms of child labour does not revise or replace the existing Conventions, but complements them, in particular the Minimum Age Convention, 1973 (No. 138). The new Convention No. 182 and Recommendation No. 190 explicitly focus on immediate and comprehensive action for the elimination of the worst forms of child labour as a priority. Therefore the emphasis targeted on the worst forms under the new Convention should not be understood as any suggestion of tolerance of other forms of child labour carried out in contravention of other international labour Conventions, in particular those concerning the minimum age for employment or work.

47. In examining Conventions concerning child labour, the Committee has been endeavouring to assess their application in practice, because even where national laws and regulations are in line with the provisions of a Convention, their effective enforcement is another matter. Therefore the Committee highly appreciates information on a wide range of practical measures including economic and social measures taken by the Government. This would comprise information on the development and extension of basic education, for both boys and girls; economic policies, employment programmes for adults and any other measures to ensure decent work for adults; the steps taken by the Government to mitigate the effect of children being withdrawn from child labour. Noting that the International Programme on the Elimination of Child Labour (IPEC) has continued to expand the volume and the range of its activities in support of countries' efforts to eliminate child labour, the Committee would welcome information on measures taken with the assistance of IPEC as it relates to the application of the Conventions in question.

48. The Committee continues to be concerned by the lack of accurate information, especially reliable data on the actual situation of child labour. This might be a consequence of the lack of effective monitoring at the national level. The Committee appreciates that it can be difficult to compile accurate data of child labour. Sometimes the problems relate to the federal nature of some States and the difficulties of coordination with local entities. There is also the compounding problem that child labour is often hidden. The users make efforts to disguise its operation and the victims are sometimes so scared and oppressed that they are unwilling or unable to admit its existence. Whilst recognizing these difficulties, the Committee firmly expresses the view that it is incumbent on each government to identify the extent of child labour as accurately as possible. This should be by a comprehensive survey using a valid statistical methodology including a gender breakdown. The Committee encourages governments to seek assistance of independent bodies, such as the Statistical Information and Monitoring Programme on Child Labour of the ILO (SIMPOC), when undertaking a survey. Accurate data collection is a vital step in developing the most effective systems to combat the problem as well as providing the basis for the assessment of effectiveness of those systems.

49. Noting with regret that very few comments have been received concerning the application of the Conventions relevant to child labour from employers' and workers' organizations, who have their role in the supervision of ILO standards, the Committee once again urges their increased involvement in overseeing the application of all Conventions relevant to child labour. The Committee is convinced that the ILO can demonstrate the strength of its standards and the supervisory system by fully utilizing all relevant Conventions for the effective abolition of child labour. It hopes that the new instruments adopted in 1999 will give fresh impetus in this direction.

Application of the Employment Policy Convention, 1964 (No. 122)

50. This year the Committee continued its examination of the reports sent by governments on the application of the Convention during the period 1997-98 which it had undertaken at its previous session. The Committee welcomes the assistance received from the ILO's Employment and Training Department and employment specialists of the multidisciplinary advisory teams.

51. Governments generally reported in substantial detail on their active labour market policies and the Committee notes the numerous innovative programmes mentioned. The Committee would like to be able to assess exactly how employment policy is decided upon, and how the policy is monitored within a framework of *coordinated* economic and social policy. In addition, the Committee would like information on how specifically monetary policy, government spending and trade policies take into account the Convention's goal of promoting full, productive and freely chosen employment. From the continuing paucity of information on these points found in government reports, the Committee can only conclude that the lessons of the past clearly demonstrating the need for an integrated approach have yet to be appreciated fully. The Committee therefore encourages member States to re-evaluate their employment policies within the wider context of an integrated approach. It looks forward to receiving more detailed information on these efforts.

52. The Committee notes progress made by numerous countries in improving consultations and cooperation with representatives of persons affected by the measures to be taken, in particular representatives of workers and employers, as required in *Article 3 of the Convention.* A number of reports, however, contained little or no information on consultations. The Committee is aware from discussions at the Third WTO Ministerial

Conference (Seattle, 30 November to 3 December 1999) of the growing realization that engaging in a wider dialogue in civil society is one of the linchpins of sustainable economic growth in an era of globalization of markets. The Committee draws attention to the obligation under *Article 3* of the Convention to engage persons concerned in developing an employment policy from the initial stages of the process. It notes with interest the success of a tripartite approach in countries such as **Barbados** and **Denmark** in securing widespread agreement on difficult measures to be taken to promote employment. However, the social dialogue called for by *Article 3* is not limited to tripartism, and the broadening of it to include, for example representatives of vulnerable groups or the informal sector, can be highly beneficial.

53. One other essential element in successfully opening economies is the minimization of risks to individuals that this economic policy entails. The Committee fully agrees with the comments of the Employer and Worker members of the Committee on the Application of Standards, made during the 1999 session of the Conference. They emphasized the need for adequate social safety nets, as even the best employment policy cannot ensure full employment at all times; and often those hardest hit by volatility in financial, commodity and other markets are those least able to influence the outcome and bear the consequences. The Committee stresses that those in the informal sector are often the ones most in need of such protection and hence safety nets should aim to cover as much of the population as possible. It invites member States to consider ways in which they may extend coverage of social protection as an integral part of their employment policies.

54. Furthermore, the Committee notes the increasing tendency for governments to characterize an increase in involuntary part-time work or a loss of jobs in the formal sector as simply an increase in flexibility in the labour market. The Committee draws attention to the report of the Office, *The International Labour Organization and the promotion of full, productive and freely chosen employment*, prepared for the International Consultation concerning Follow-up to the World Summit for Social Development, which took place in November 1999. The report emphasizes that, although full employment in any country requires flexibility at all levels, such flexibility can be created either negatively in a climate of insecurity, or positively by social dialogue and cooperation. The Committee calls on member States to pursue the latter method to the greatest extent possible, so that free choice of employment – as called for in the Convention – is given full play.

55. The Committee notes the marked trend toward promoting self-employment and micro and small enterprises, sometimes as a primary component of a government's employment policy. While it welcomes this initiative and hopes that it will make a substantial contribution to retaining and generating employment, it also notes that much research is still needed on the financial and social benefits and the costs and limits of such initiatives. The ILO Action Programme of the Social Finance Unit has undertaken research on some of the key issues in micro and small enterprise promotion, to provide decision-makers with relevant information on how to improve and sustain such programmes and to facilitate the exchange of experience and cooperation among key stakeholders from the public and private sectors, at both the national and international levels. The Committee very much welcomes the ILO's efforts to establish a solid foundation for micro and small enterprise development, based on empirical research, which may be of assistance to member States in developing and refining their programmes for employment generation. It also recalls the provisions of the Job Creation in Small and Medium-Sized Enterprises Recommendation, 1998 (No. 189), in particular those pertaining to gender issues and to providing adequate infrastructure, training, advice and support for novice entrepreneurs. It invites member States to incorporate the main provisions in their policies for application of the Convention.

56. Because full employment is increasingly seen not just as an ideal but as a realistic goal towards which many countries are progressing, it is an opportune time for member States to define the goal more fully. The Committee fully agrees with the conclusions set out in the Report of the Director-General to the 1999 session of the International Labour Conference, entitled *Decent work*. The Director-General stresses that the goal of full employment should be the creation of jobs of acceptable quality, and sets as a minimum criterion the application in law and practice of the Conventions covered by the Declaration on Fundamental Principles and Rights at Work. The Committee encourages member States to take into account the standards set forth in these fundamental Conventions when evaluating whether their employment policies have been successful in creating jobs of acceptable quality under Convention No. 122.

57. Lastly, the Committee notes that the World Bank and the International Monetary Fund have put in place a programme for debt relief to heavily indebted poor countries (HIPC) meeting certain qualifying conditions, and that the Group of Eight (G8) has committed funding. Given that the aim of the programme is to reduce poverty, the Committee trusts that programme participants will prioritize employment promotion and human resource development, and encourages all member States to consider how they can contribute to expanding this important initiative.

III. Technical assistance in the field of standards

A. Direct contacts

58. No direct contacts missions were undertaken since the last meeting of the Committee of Experts.

B. Promotional activities

59. Since the last meeting of the Committee of Experts, several regional and subregional seminars and symposia on international labour standards and freedom of association have been held: a National Tripartite Seminar on Convention No. 87 (Rabat, February 1999); a Subregional Seminar for Labour Court Judges on Equality in Employment (Harare, February 1999); a Seminar on Human Rights for Permanent Missions (Geneva, March 1999); a Subregional Tripartite Seminar on National Legislation and International Labour Standards for the Caribbean (Nassau, Bahamas, August 1999); a Seminar on International Labour Standards for Lawyers and Legal Educators (Turin, August 1999); and a Subregional Seminar on Recent Trends in Employment Equality Issues for Labour Courts and Tribunals (Port-of-Spain, October 1999).

60. The Committee notes that for several years the International Labour Standards Department has been carrying out activities for the promotion of the ILO standards system by holding seminars on standards and the ILO legal information system. This consists specifically of ILOLEX, a database on international labour standards, and NATLEX, a database on national legislation in respect of labour, social security and related human rights questions. A special promotional effort for both ILOLEX and NATLEX was made during the International Labour Conference.

61. The Committee welcomes the development of the ILO Internet website[3] created in 1997. The site provides extensive information on international labour standards, including their form, content and characteristics; how they are established, used and enforced; and why they are needed. The two departmental legal databases – ILOLEX and NATLEX – are globally available on the ILO website as well as on CD-ROM. They respond to a monthly average of 80,000 requests for information on international labour standards and national labour legislation. Four new categories of texts have been added to ILOLEX since 1998. As to NATLEX, ten new full texts of basic national labour, social security and related human rights laws are published in the database each month; the goal is to have 500 full texts in NATLEX by the end of 2001.

62. The International Labour Standards Department continues to organize an annual training course for government officials responsible for reporting on international labour standards. This course is held at the Turin Centre and in Geneva during the two weeks immediately preceding the June Conference. Many of the fellows stay on in Geneva to participate in the work of the Conference Committee. The 1999 course was attended by 38 participants from 35 countries. In addition, NORMES officials make presentations on standards on a regular basis to training courses on other subjects organized by the Turin Centre.

63. Other activities for the promotion of standards took the form of participation in seminars, workshops, symposia and meetings, and the provision of advisory services, technical assistance and consultations concerning international labour standards for the following 49 countries: **Austria, Azerbaijan, Bangladesh, Barbados, Belgium, Brazil, Cameroon, Canada, Chile, China, Costa Rica, Côte d'Ivoire, Croatia, Egypt, Estonia, Ethiopia, Fiji, France, Gabon, Georgia, Germany, Hungary, India, Indonesia, Islamic Republic of Iran, Italy, Republic of Korea, Kyrgyzstan, Lebanon, Lithuania, Luxembourg, Republic of Moldova, Morocco, Pakistan, Philippines, Poland, Romania, Russian Federation, Saint Kitts and Nevis, South Africa, Spain, Sri Lanka, Syrian Arab Republic, Thailand, Trinidad and Tobago, Ukraine, United Kingdom, United States, Uruguay**.

64. A technical guide to freedom of association procedures and standards will soon be available in English. The French and Spanish versions are to be published shortly thereafter. An article on the right to strike was published in the *International Labour Review* and is available as a separate reprint in English, French and Spanish.

C. Multidisciplinary advisory teams and technical cooperation

65. The Committee notes that specialists in international labour standards were in place in 11 of the 16 multidisciplinary teams (MDTs) (in Addis Ababa, Bangkok, Beirut, Dakar, Harare, Lima, Moscow, New Delhi, Port-of-Spain, San José and Santiago, Chile),

[3] The address of this site is: http://www.ilo.org.

and that a specialist would take up his duties in Manila early in 2000. The post in Abidjan was about to be filled, however there are still no provisions for such posts in the Budapest, Cairo and Yaoundé MDTs. The Committee recalls that the services provided by the MDTs – and especially the standards specialists, where they exist – include assisting constituents in fulfilling their standards-related obligations and promoting tripartite consultations on these issues. The standards specialists play an important role within the framework of the Director-General's campaign for ratification of the fundamental Conventions of the ILO, as well as within the framework of the Declaration on Fundamental Principles and Rights at Work and its Follow-up.

66. The Committee notes with interest the continued efforts made by the MDTs and the standards specialists in providing explanations and assistance as to the measures called for to overcome the obstacles to application of Conventions as the Committee itself has pointed out in its observations and direct requests. It also stresses the continued efforts made by the International Labour Standards Department to support and supplement the work of the standards specialists and especially the efforts made to help certain regions or countries in the absence of a standards specialist or the required technical expertise. The Committee notes with interest that in June 1999 standards specialists and associate experts on standards from the field were once again brought to headquarters on mission for consultations prior to and during the International Labour Conference, enabling comparison of experience and mutual briefing on current issues preoccupying relevant headquarters departments and contacts with national tripartite constituents represented in delegations to the Conference. It points out the essential role played by standards specialists and the MDTs as a whole in regard to the promotion and supervision of the fullest possible application of the entire range of international labour standards.

67. In this context, the Committee has noted with particular interest the resolution and conclusions concerning the role of the ILO in technical cooperation adopted by the Conference in 1999. These clearly place international labour standards in the context of the Organization's four strategic objectives where: "an enabling environment for the promotion, realization and implementation of the international labour standards must be created with a view to ensuring that technical cooperation can assist in the ratification of international labour standards and help the countries which have ratified standards to implement them effectively". The Committee recalls its own role in examining problems of implementation of ratified Conventions and is delighted at this fresh indication of measures to ensure that countries might receive appropriate technical cooperation.

IV. Role of employers' and workers' organizations

68. At each session, the Committee draws the attention of governments to the role that employers' and workers' organizations are called upon to play in the application of Conventions and Recommendations and to the fact that numerous Conventions require consultation with employers' and workers' organizations, or their collaboration in a variety of measures. Moreover, the General Survey carried out this year by the Committee on tripartite consultation demonstrates the importance it attaches to this issue.[4] The Committee notes with satisfaction that almost all governments have indicated in the reports supplied under articles 19 and 22 of the Constitution the representative organizations of employers and workers to which, in accordance with article 23, paragraph 2, of the Constitution, they have communicated copies of the reports supplied to the Office.[5] Almost all governments have indicated the organizations to which they have communicated copies of the information supplied to the Office on the submission to the competent authorities of the instruments adopted by the Conference.

69. In accordance with established practice, the Office sent to the representative organizations of employers and workers a letter outlining the various opportunities open to them of contributing to the implementation of Conventions and Recommendations, accompanied by relevant documentary material, and a list of the reports due from their respective governments and copies of the Committee's comments to which the governments were invited to reply in their reports.

Observations made by employers' and workers' organizations

70. Since its last session, the Committee has received 257 observations, 53 of which were communicated by employers' organizations and 189 by workers' organizations. It shows again the interest of employers' and workers' organizations in the implementation of ILO standards and reflects the constant efforts made by the supervisory bodies and the Office to give interested organizations complete information on their role in this area. The Committee stresses the importance it attaches to this contribution by employers' and workers' organizations to the tasks of the supervisory bodies, which is essential for the Committee's evaluation of the application of ratified Conventions in law and in practice. It invites the employers' and workers' organizations to continue and augment their contribution to the supervisory system.

71. The majority of observations received (242) relate to the application of ratified Conventions (see list in Appendix, page 39). Fifteen observations relate to the reports provided by governments under article 19 of the Constitution of the ILO relating to the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), and the Tripartite Consultation (Activities of the International Labour Organisation) Recommendation, 1976 (No. 152).[6]

72. The Committee notes that, of the observations received this year, 118 were transmitted directly to the Office which, in accordance with the practice established by the Committee, referred them to the governments concerned for comment. In 137 cases the governments transmitted the observations with their reports, sometimes adding their own comments.

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[4] ILO: Report III (Part 1B), ILC, 88th Session, 2000.

[5] Direct requests have been addressed to the following States: **Kuwait, Liberia, Tajikistan**.

[6] ***Austria:*** Federal Chamber of Labour; ***Bangladesh:*** Bangladesh Employers' Federation (BEF); ***Belarus:*** Federation of Trade Unions of Belarus; ***Brazil:*** National Confederation of Agriculture (CNA); National Confederation of Commerce; National Confederation of Transport (CNT); ***Canada:*** Canadian Employers Council; Canadian Labour Congress; National Trade Unions Confederation (CSN); ***Mauritius:*** Federation of Constituent Bodies' Trade Unions (FSCC); Mauritius Employers' Federation (MEF); ***Sri Lanka:*** Lanka Jathika Estate Workers' Union; ***Turkey:*** Confederation of Progressive Trade Unions of Turkey (DISK); Confederation of Turkish Employers' Associations (TISK); Confederation of Turkish Real Trade Unions.

73. The Committee also examined a number of other observations by employers' and workers' organizations, consideration of which had been postponed from the last session because the observations of the organizations or the replies of the governments had arrived just before or just after the session. It has had to postpone the examination of a number of observations to its next session, when they were received too close to or even during the Committee's present session to allow sufficient time for the governments concerned to make comments and for the Committee to consider the matters involved.

74. The Committee notes that in most cases the employers' and workers' organizations endeavoured to gather and present precise elements of law and fact on the application in practice of ratified Conventions. Unfortunately, in some instances there has been insufficient particularity provided by the organizations for the Committee to deal with the topic raised. It is important for organizations to give adequate detail to enable the Committee to assess whether or not there is conformity with the Convention concerned. On the other hand, once an issue is adequately identified, as the duty to ensure compliance with the Convention resides at all times with the government, it is incumbent upon the government to properly investigate the allegations and thereafter inform the Committee of the result.

75. The Committee notes that the matters dealt with in these observations have touched on a very wide range of Conventions relating, in particular, to the following subjects: protection of the right to organize and the right to collective bargaining, wage payment, discrimination, forced labour, minimum wage fixing, occupational safety and health, employment policy, labour inspection, tripartite consultations relating to international labour standards, maritime labour and social security. The second part of this report contains most of the comments made by the Committee on cases in which the comments raised matters relating to the application of ratified Conventions. Where appropriate, other comments are examined in requests addressed directly to the governments.

76. Finally the Committee notes that the Tripartite Consultation (International Labour Standards) Convention (No. 144), with 93 ratifications, is now binding on one in two member States. The Committee concludes in its General Survey that the universal application of the instrument, which provides for the implementation of effective consultation procedures with employers' and workers' representatives on each of the measures to be taken on international labour standards, could be envisaged in the not too distant future. The Committee hopes that its Survey will encourage many other countries to envisage ratifying this Convention.

V. Reports on ratified Conventions

(articles 22 and 35 of the Constitution)

Supply of reports

77. The Committee's principal task consists of the examination of the reports supplied by governments on Conventions which have been ratified by member States or which have been declared applicable to non-metropolitan territories.

78. In accordance with the decision to modify the regular supervisory procedures, adopted by the Governing Body at its 258th Session (November 1993), reports were requested this year on 35 ratified Conventions.[7] These reports cover the period ending 1 September 1999. Furthermore, detailed reports were also requested from certain governments on other Conventions, in accordance with the criteria approved by the Governing Body concerning the obligation to send reports more frequently.[8] The procedures which are followed and established practice with regard to the obligations relating to international labour standards are found in the *Handbook of procedures relating to international labour Conventions and Recommendations*.

Reports requested and received

79. A total of 2,290 reports were requested from governments on the application of Conventions ratified by member States (article 22 of the Constitution). At the end of the present session of the Committee, 1,406 of these reports had been received by the Office. This figure corresponds to 61.4 per cent of the reports requested, compared with 62.1 per cent last year. The Committee regrets that, as indicated in paragraphs 92 and 93 below, a number of reports received are incomplete and do not enable it to reach conclusions regarding the application of the Conventions concerned. A table showing reports received and not received, classified by country and by Convention, is to be found in Part Two (section I, Appendix I). Another table (section I, Appendix II) shows, for each year in which the Conference has met since 1932, the number and percentage of reports received by the prescribed date, by the date of the meeting of the Committee, and by the date of the session of the International Labour Conference.

80. In addition, 364 reports were requested on Conventions declared applicable with or without modifications to non-metropolitan territories (articles 22 and 35 of the Constitution). Of these, 218 reports, 59.9 per cent, had been received by the end of the Committee's session, in comparison with 43.3 per cent last year. A list of the reports received and not received, classified by territory and by Convention, is to be found appended to section II of Part Two of this report.

81. In those cases in which the reports were not accompanied by copies of the relevant legislation, statistical data or other documentation necessary for their full examination, and where this material was not otherwise available, the Office, as requested by the Committee, wrote to the governments concerned asking them to supply the necessary texts to enable the Committee to fulfil its task.

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[7] Conventions Nos. 4, 11, 12, 17, 18, 41, 42, 43, 48, 49, 63, 67, 81, 85, 89, 98, 105, 111, 121, 127, 144, 148, 149, 150, 151, 154, 155, 156, 158, 159, 160, 161, 162, 171, 175.

[8] GB.258/LILS/6/1 (Nov. 1993), para. 12(c).

Compliance with reporting obligations

82. Most of the governments from which reports were due on the application of ratified Conventions have supplied all or most of the reports requested, as can be seen from Appendix I, Part Two, section I. However, some governments have not complied with their obligation to supply reports on ratified Conventions. Thus, all or the majority of the reports due this year have not been received from the following 39 countries: **Antigua and Barbuda, Benin, Bolivia, Botswana, Burundi, Cameroon, Cape Verde, Central African Republic, Denmark (Faeroe Islands), Ethiopia, Fiji, France (French Guiana), France (Guadeloupe), France (Martinique), Gabon, Ghana, Grenada, Guinea, Guinea-Bissau, Islamic Republic of Iran, Iraq, Jamaica, Kyrgyzstan, Lao People's Democratic Republic, Lesotho, Libyan Arab Jamahiriya, Malaysia, Malaysia (Peninsular Malaysia), Malaysia (Sabah), Malaysia (Sarawak), Malta, Mauritania, Nepal, Netherlands (Aruba), Netherlands (Netherlands Antilles), Niger, Slovakia, Swaziland, Sweden, Syrian Arab Republic, United Republic of Tanzania, Trinidad and Tobago, Turkmenistan, Uruguay, Yemen**. No reports have been received for the past two or more years from the following 17 countries: **Afghanistan, Armenia, Bosnia and Herzegovina, Burkina Faso, Comoros, Democratic Republic of the Congo, Djibouti, Equatorial Guinea, Georgia, Saint Lucia, Sao Tome and Principe, Sierra Leone, Solomon Islands, Somalia, United Republic of Tanzania (Zanzibar), The former Yugoslav Republic of Macedonia, Uzbekistan**.

83. The Committee urges the governments of these countries, and also of those which have sent only some of the reports due, to make every effort to supply the reports requested on ratified Conventions. Where no reports have been sent for a number of years, it is likely that particular problems of an administrative or technical nature are preventing the government concerned from fulfilling its obligations under the ILO Constitution, and it may be that in cases of this kind assistance from the Office, in particular with the help of members of multidisciplinary advisory teams who are specialists on international labour standards, could enable the government to overcome its difficulties.

Late reports

84. The Committee is once again bound to emphasize the importance of communicating reports in due time. The reports due on ratified Conventions were to be sent to the Office between 1 June and 1 September 1999. Due consideration is given, when fixing this date, particularly to the time required to translate the reports, where necessary, to conduct research into legislation and other necessary documents, and to examine reports and legislation. The supervisory procedure can function correctly only if reports are communicated in due time. This is particularly true in the case of first reports or reports on Conventions where there are serious or continuing discrepancies, which the Committee has to examine in greater depth.

85. The Committee observes that the great majority of reports are received between the time limit fixed and the date on which the Committee meets: by

1 September 1999, the proportion of reports received was only 22.7 per cent. This has not improved compared with the previous session (22.7 per cent), and the Committee is still concerned, since it notes that it is often first reports and those relating to Conventions on which the Committee has made comments that are received the latest. In these circumstances, the Committee has been bound in recent years to postpone to its following session the examination of an increasing number of reports, since they could not be examined with the necessary care owing to lack of time. It has thus had to examine a number of reports at its present session which had previously been deferred.

86. The Committee wishes to draw attention to the problem of the timing of transmission by governments of their reports. This year, only a small percentage of reports due were received by the requested date. The Committee notes that under the calendar for the reporting cycle implemented as a result of the decisions taken by the Governing Body in November 1993 the figure has not improved. The majority of reports received from governments continued this time to arrive in the last three months before the Committee's meeting or even during it. This obviously places a huge strain on the supervisory process and effectively makes it impossible for particular cases to be dealt with adequately or at all.

87. The Committee has noted with interest the efforts made by the Office – particularly through the standards specialists present in several of the multidisciplinary teams – to assist in ensuring the fulfilment of reporting obligations. It proposes to consider this question again in the light of the experience of the next few years. In the meantime, it appeals to all governments to examine the means by which their labour administrations can best take advantage of the new reporting arrangements and make sure the obligations are fulfilled.

88. Furthermore, the Committee notes that a number of countries sent some or all of the reports due on ratified Conventions during the period between the end of the Committee's December 1998 session, and the beginning of the June 1999 session of the International Labour Conference, or even during the Conference.[9] The Committee emphasizes that this practice disturbs the regular operation of the supervisory system and makes it more burdensome. It wished to provide the following list of those countries for 1998-99 as requested by the Conference Committee on the Application of Standards: **Bangladesh** (Conventions Nos. 45, 96), **Barbados** (Convention No. 5), **Belize** (Conventions Nos. 5, 8, 29, 87, 88, 99, 108), **Cameroon** (Conventions Nos. 9, 29), **China** – *Hong Kong Special Administrative Region* (Conventions Nos. 2, 5, 8, 29, 45, 59, 87, 108, 122, 142, 147), **Congo** (Conventions Nos. 29, 87), **Cyprus** (Conventions Nos. 44, 122), **Dominica** (Conventions Nos. 8, 26, 29, 87, 97, 100, 108), **France** (Conventions Nos. 92, 108, 133), **Ghana** (Conventions Nos. 8, 22, 45, 58, 74, 87, 94, 98, 105, 108), **Iraq** (Conventions Nos. 136, 138, 142, 167), **Kenya** (Convention No. 29), **Latvia** (Conventions Nos. 3, 5, 13, 132), **Liberia** (Conventions Nos. 22, 29, 53, 58, 87, 92, 98, 105, 111, 112, 113, 114), **Malawi** (Conventions Nos. 45, 100, 129), **Malaysia** (Convention No. 81), **Mauritania** (Conventions Nos. 87, 118, 122), **Nigeria** (Conventions Nos. 19, 45, 58, 59, 81, 87, 98, 144), **Panama** (Conventions Nos. 30, 88,

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[9] For the reports received and not received by the end of the Conference, see Report of the Committee on the Application of Standards, Part Two, IC and IIB (*Provisional Record* No. 23, 87th Session, ILC, 1999).

114), **Philippines** (Conventions Nos. 88, 110), **Russian Federation** (Convention No. 95), **Seychelles** (Conventions Nos. 2, 5, 8, 29, 108, 149), **Tajikistan** (Conventions Nos. 27, 29, 45, 47, 87, 92, 98, 103, 108, 111, 122, 126, 142).

Supply of first reports

89. A total of 111 of the 175 first reports due on the application of ratified Conventions were received by the time that the Committee's session ended. However, a number of countries have failed to supply first reports, some of which are more than a year overdue. Thus, certain first reports on ratified Conventions have not been received from the following 11 States: since 1992 – **Liberia** (Convention No. 133); since 1995 – **Armenia** (Convention No. 111), **Kyrgyzstan** (Convention No. 133); since 1996 – **Armenia** (Conventions Nos. 100, 122, 135 and 151), **Grenada** (Convention No. 100), **Uzbekistan** (Conventions Nos. 47, 52, 103 and 122); since 1997 – **Mali** (Conventions Nos. 141 and 151); and since 1998 – **Armenia** (Convention No. 174), **Bolivia** (Convention No. 159), **Equatorial Guinea** (Conventions Nos. 68 and 92), **Georgia** (Conventions Nos. 105 and 138), **Jamaica** (Convention No. 144), **Mongolia** (Convention No. 135), **Uzbekistan** (Conventions Nos. 29 and 100).

90. First reports have particular importance since it is the basis on which the Committee makes its initial assessment of the observance of ratified Conventions. The Committee therefore requests the governments concerned to make a special effort to supply these reports.

Replies to the comments of the supervisory bodies

91. Governments are requested to reply in their reports to the observations and direct requests of the Committee, and the majority of governments have provided the replies requested. In accordance with the established practice, the International Labour Office wrote to all the governments who failed to provide such replies, requesting them to supply the necessary information. Of the 68 governments to which such letters were sent, only 24 have provided the information requested.

92. The Committee notes that there are still many cases of failure to reply to its comments; either:

(a) out of all the reports requested from governments, no report or reply has been received; or

(b) the reports received contained no reply to most of the Committee's comments (observations and/or direct requests) and/or did not reply to the letters sent by the Office.

93. In all there were 411 such cases (concerning 46 countries),[10] as compared with 353 (concerning 50 countries) last year. The Committee notes with concern that the number of these cases has increased considerably. It is bound to repeat the observations or direct requests already made on the Conventions in question.

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[10] ***Afghanistan*** (Conventions Nos. 41, 100, 105, 111, 137, 141, 142); ***Antigua and Barbuda*** (Conventions Nos. 29, 81, 87, 111, 138)); ***Belize*** (Conventions Nos. 5, 88, 98, 105); ***Benin*** (Conventions Nos. 85, 105); ***Bosnia and Herzegovina*** (Conventions Nos. 87, 122); ***Burkina Faso*** (Conventions Nos. 17, 18, 29, 81, 98, 100, 111, 129, 159); ***Cape Verde*** (Conventions Nos. 17, 81, 98, 111); ***Central African Republic*** (Conventions Nos. 17, 18, 19, 41, 62, 81, 87, 105, 111, 118); ***Comoros*** (Conventions Nos. 1, 17, 26, 29, 42, 81, 95, 98, 99, 100, 105, 122); ***Democratic***

94. The failure of the governments concerned to fulfil their obligations considerably hinders the work of the Committee of Experts and that of the Conference Committee, and the Committee of Experts cannot overemphasize the special importance of ensuring the dispatch of the reports and replies to its comments on time.

Examination of reports

95. In examining the reports received on ratified Conventions and Conventions declared applicable to non-metropolitan territories, the Committee follows its usual practice of assigning to each of its members the initial responsibility for a group of Conventions. Reports received early enough are sent to the members concerned in advance of the Committee's session. The members submit their preliminary conclusions on the instruments for which they are responsible to all their colleagues for their examination. These conclusions are then presented to the Committee in plenary sitting by their respective authors for discussion and approval. Decisions on comments are

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Republic of the Congo (Conventions Nos. 26, 29, 62, 88, 94, 98, 100, 117, 118, 119, 121, 158); ***Denmark: Faeroe Islands*** (Conventions Nos. 9, 16, 92); ***Djibouti*** (Conventions Nos. 1, 9, 19, 26, 29, 37, 38, 53, 55, 63, 69, 73, 81, 87, 88, 91, 94, 95, 96, 99, 100, 105, 106, 108, 115, 120, 122, 125, 126); ***Equatorial Guinea*** (Conventions Nos. 1, 30); ***Ethiopia*** (Conventions Nos. 87, 98, 155, 156, 158, 159); ***Fiji*** (Conventions Nos. 8, 29, 105); ***France: French Guiana*** (Conventions Nos. 35, 36, 37, 38, 42, 100, 129, 142, 149); ***France: Guadeloupe*** (Conventions Nos. 35, 36, 37, 38, 42, 92, 100, 129, 131, 142, 149); ***France: Martinique*** (Conventions Nos. 35, 36, 37, 38, 42, 81, 92, 100, 129, 136, 142, 149); ***France: St. Pierre and Miquelon*** (Conventions Nos. 42, 63, 122, 131, 149); ***Gabon*** (Conventions Nos. 11. 29, 81, 105, 111, 135, 144, 154, 158); ***Grenada*** (Conventions Nos. 26, 58, 81, 99); ***Guinea*** (Conventions Nos. 29, 87, 98, 100, 105, 111, 117, 121, 122, 136, 144, 148, 149, 159); ***Guinea-Bissau*** (Conventions Nos. 17, 18, 19, 26, 29, 45, 74, 81, 88, 91, 100, 108, 111); ***Iran, Islamic Republic of*** (Conventions Nos. 111, 122); ***Ireland*** (Conventions Nos. 139, 159, 160); ***Jamaica*** (Conventions Nos. 98, 111, 149, 150); ***Kenya*** (Conventions Nos. 17, 29, 63, 105, 144, 149); ***Kyrgyzstan*** (Conventions Nos. 29, 87, 98, 100, 108, 122, 147, 148, 149, 159); ***Libyan Arab Jamahiriya*** (Conventions Nos. 1, 29, 52, 53, 81, 88, 95, 98, 100, 102, 103, 105, 111, 118, 121, 122, 128, 130, 138); ***Malaysia*** (Conventions Nos. 29, 98); ***Malta*** (Conventions Nos. 1, 96, 100, 111, 117, 149); ***Netherlands: Aruba*** (Conventions Nos. 25, 87, 94, 95, 101, 121, 122, 135, 137, 142, 145, 146); ***Niger*** (Conventions Nos. 81, 87, 111, 119, 131, 138, 142, 156, 158); ***Nigeria*** (Conventions Nos. 26, 29, 88, 100, 105); ***Saint Lucia*** (Conventions Nos. 5, 17, 19, 29, 87, 94, 95, 97, 98, 100, 111); ***Sao Tome and Principe*** (Conventions Nos. 17, 18, 81, 87, 88, 98, 100, 111, 144, 159); ***Sierra Leone*** (Conventions Nos. 8, 17, 26, 29, 59, 88, 95, 98, 99, 100, 101, 105, 111, 119, 125, 126, 144); ***Slovakia*** (Conventions Nos. 12, 17, 89, 130, 148, 155, 159, 160); ***Slovenia*** (Conventions Nos. 121, 122, 148, 155, 156, 159, 161, 162); ***Solomon Islands*** (Conventions Nos. 8, 29); ***Swaziland*** (Conventions Nos. 81, 89, 98, 100, 144, 160); ***Sweden*** (Conventions Nos. 98, 111, 121, 147, 148, 149, 155, 157, 158, 160, 161, 164); ***Tanzania, United Republic of*** (Conventions Nos. 17, 59, 63, 98, 137, 142, 144, 148, 149); ***The former Yugoslav Republic of Macedonia*** (Convention No. 87); ***Trinidad and Tobago*** (Conventions Nos. 85, 98, 105, 111); ***Uganda*** (Conventions Nos. 105, 144, 154, 159, 162); ***United Kingdom: Anguila*** (Conventions Nos. 17, 148); ***Uruguay*** (Conventions Nos. 63, 81, 95, 111, 121, 131, 148, 149, 150, 151, 155, 156, 159, 161); ***Yemen*** (Conventions Nos. 98, 105, 111, 158).

adopted by consensus, without prejudice to experts who wish to put forward different opinions, as was sometimes the case in the past.

Observations and direct requests

96. In many cases, the Committee has found that no comment is called for regarding the way in which a ratified Convention has been implemented. In other cases, however, the Committee has found it necessary to draw the attention of the governments concerned to the need to take further action to give effect to certain provisions of Conventions or to supply additional information on given points. As in previous years, its comments have been drawn up in the form either of "observations" which are reproduced in the report of the Committee, or "direct requests", which are not published in the report, but are communicated directly to the governments concerned.[11]

97. As in the past, the Committee has indicated by footnotes the cases in which, because of the nature of the problems met in the application of the Conventions concerned, it has seemed appropriate to ask the Government to supply a detailed report earlier than would otherwise have been the case. Under the present reporting cycle,[12] which applies to most Conventions, such early reports have been requested after an interval of either one or two years, according to circumstances. In some instances, the Committee has also requested the Government to supply full particulars to the Conference at its next session in June 2000.

98. The observations of the Committee appear in Part Two (sections I and II) of this report, together with a list under each Convention of any direct requests. An index of all observations and direct requests, classified by country, is provided at the beginning of this report.

Cases of progress

99. In accordance with its usual practice, the Committee has drawn up a list of the cases in which it has been able to express its satisfaction at certain measures taken by governments to make the necessary changes in their country's law or practice following comments by the Committee on the degree of conformity between national law or practice and the provisions of a ratified Convention. Details concerning the cases in question are to be found in Part II of this report and cover 27 instances in which measures of this kind have been taken in 23 countries. The full list is as follows:

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[11] ILO: *Handbook of procedures relating to international labour Conventions and Recommendations*, Geneva, Rev.2/1998, para. 54(k).

[12] After the first report, subsequent reports are requested every two years for the priority Conventions and every five years for other Conventions, divided into five equal groups (GB.258/6/19).

State	*Conventions Nos.*
Algeria	44
Argentina	98
Azerbaijan	111
Belice	87
Brazil	103
Burkina Faso	87
China (Hong Kong)	8
Costa Rica	1
Cyprus	152
Ecuador	149
Egypt	18
Ghana	98
Greece	81, 98, 151, 154
Guatemala	111, 156
Jordan	81
Latvia	87
Republic of Moldova	87
Mozambique	17
Panama	8
Portugal	156
United Republic of Tanzania	135
Tunisia	55
United Arab Emirates	81

100. Thus, the total number of cases in which the Committee has been led to express its satisfaction with the progress achieved following its comments has risen to 2,230 since the Committee began listing them in its reports in 1964. In addition, there have been many cases in which the Committee has been able to note with interest various measures that have been taken following its comments with a view to ensuring a fuller application of ratified Conventions. All these cases provide an indication of the efforts made by governments to ensure that their national law and practice are in conformity with the provisions of the ILO Conventions they have ratified.

101. These cases do not, however, as the Committee regularly points out, exhaust the instances in which Conventions and Recommendations have a measurable influence on the law and practice of member States. For example, the Committee has again noted a number of cases this year in which it is clear from the first report on the application of a

Convention that new legislative or other measures were adopted shortly before or after ratification.

Practical application

102. As in previous years, the Committee has been concerned with assessing, on the basis of the information available, the extent to which national legislation giving effect to ratified Conventions is applied in practice. A number of questions designed to elicit information on this point are included in the report forms approved by the Governing Body for the Conventions, and the replies of governments to these questions constitute an appreciable, though uneven, source of information on practical application available to the Committee. The Committee has also taken into account other authoritative sources of information. These consist, in particular, of reports from other international or regional organizations, of the annual reports of labour inspection services, statistical yearbooks published in the States or by the ILO, observations of employers' or workers' organizations, compilations of judicial or administrative decisions, reports on direct contacts, reports on technical cooperation projects and missions, and other official publications such as manuals, studies and economic and social development plans.

103. The Committee notes that this year some 60.3 per cent of the reports supplied on Conventions for which information on practical application was specifically requested contained such data. Remarking that this percentage is lower in comparison with recent years, the Committee reiterates its appeal to all governments to continue to make every effort to include the information requested in their future reports.

104. The following 31 countries have provided information on practical application in more than half the reports concerned: **Azerbaijan, Belarus, Brazil, Cuba, Finland, Germany, Greece, Guatemala, Israel, Japan, Jordan, Kenya, Kuwait, Lithuania, Luxembourg, Madagascar, Mali, Mauritius, Mexico, Republic of Moldova, New Zealand, Philippines, Portugal, Romania, Singapore, Slovenia, Sri Lanka, Switzerland, Togo, Ukraine, Zambia**.

105. The Committee wishes particularly to thank governments that have given information on practical application in their reports, as this information has greatly helped it in assessing more accurately the extent to which ratified Conventions are actually applied in these countries.

106. As in previous years, the Committee has addressed direct requests to certain countries which have not replied to the questions in the report forms on practical application. The Committee notes that, again this year, the majority of the countries in question are developing countries and that certain of them have referred specifically to difficulties of a financial and/or administrative nature which are preventing them from compiling the statistical and other information requested. The Committee is of the opinion that these are also cases in which technical assistance from the International Labour Office, particularly when provided by the multidisciplinary advisory teams, could assist in overcoming the difficulties in question.

107. The Committee also notes with interest the judicial and administrative decisions on questions of principle relating to the application of ratified Conventions to which certain countries have referred in their reports. It noted that 45 reports contain information of this kind and thereby shed additional light on the problems raised in these cases by the practical application of the Conventions in question.

VI. Submission of Conventions and Recommendations to the competent authorities

(article 19, paragraphs 5, 6 and 7, of the Constitution)

108. In accordance with its terms of reference, the Committee this year examined the following information supplied by the governments of member States, pursuant to article 19 of the Constitution of the International Labour Organization:

(a) information on the steps taken to submit to the competent authorities the instruments adopted by the Conference at its 85th Session (June 1997), namely the Private Employment Agencies Convention (No. 181) and Recommendation (No. 188);

(b) information on the steps taken to submit to the competent authorities the Job Creation in Small and Medium-Sized Enterprises Recommendation (No. 189), adopted by the Conference at its 86th Session (June 1998);

(c) information on the steps taken to submit to the competent authorities the instruments on the worst forms of child labour (Convention No. 182 and Recommendation No. 190), adopted by the Conference at its 87th Session (June 1999);

(d) additional information on the steps taken to submit to the competent authorities the instruments adopted by the Conference from its 31st Session (1948) to its 84th Session (October 1996) (Conventions Nos. 87 to 180, Recommendations Nos. 83 to 187 and the Protocols); and

(e) replies to the observations and direct requests made by the Committee at its previous session (November-December 1998).

109. The table in Appendix I to section III of Part Two of this report shows the position of each member State on the basis of the information supplied by the governments with regard to the discharge of the obligation to submit instruments adopted by the Conference to the competent authorities. Appendix II shows the overall situation with regard to the instruments adopted since the 31st Session of the Conference. Appendix III contains a summary indicating, where possible, the name of the competent authority and the date of the submission of the instruments adopted by the Conference at its 85th, 86th and 87th Sessions.

85th Session

110. The submission to the competent authorities of Convention No. 181 and Recommendation No. 188 on private employment agencies, adopted at the 85th Session of the Conference (June 1997) was to have been made within one year, or under exceptional circumstances, within 18 months of the close of the session of the Conference, the final dates for submission being 19 June 1998 and 18 December 1998, respectively. In the meantime, ratifications by two Members have been registered by the Director-General. Convention No. 181 will enter into force on 10 May 2000. The

Committee recalls that information on this session was already published in its previous report. It notes with interest that the following 24 governments have provided new information on the steps taken for the submission to the authorities which they consider competent of the instruments adopted by the Conference at its 85th Session: **Austria, Azerbaijan, Belgium, Botswana, China, Croatia, Denmark, Estonia, Finland, Ghana, Indonesia, Iraq, Ireland, Lebanon, Liberia, Lithuania, Republic of Moldova, New Zealand, Russian Federation, Spain, Switzerland, United Kingdom, United States, Zimbabwe**.

86th Session

111. The submission to the competent authorities of Recommendation No. 189 adopted at the 86th Session of the Conference (June 1998) was to have been made within one year or, under exceptional circumstances, within 18 months of the close of the session, the final dates for submission being 18 June 1999 and 18 December 1999, respectively. The Committee notes with interest that the following 48 governments have provided information on the steps taken with a view to the submission of Recommendation No. 189 to the authorities which they consider competent: **Azerbaijan, Bahamas, Belarus, Botswana, Bulgaria, China, Costa Rica, Cuba, Czech Republic, Dominican Republic, Ecuador, Egypt, Ethiopia, Finland, Georgia, Ghana, Iraq, Ireland, Jamaica, Japan, Jordan, Republic of Korea, Lebanon, Liberia, Luxembourg, Malaysia, Republic of Moldova, Myanmar, New Zealand, Nicaragua, Norway, Pakistan, Panama, Peru, Philippines, Poland, Portugal, Romania, Russian Federation, Saint Vincent and the Grenadines, Slovakia, Switzerland, Tunisia, Turkey, United Arab Emirates, United States, Viet Nam, Zimbabwe**.

87th Session

112. In response to the appeal made by the Director-General to give the highest priority to the ratification of Convention No. 182, certain governments have provided information on the steps taken with a view to the submission and ratification of the Worst Forms of Child Labour Convention (No. 182), adopted on 17 June 1999 at the 87th Session of the Conference. The Committee notes with interest the information on the submission to the competent authorities provided by the following 15 States: **Azerbaijan, Brazil, Costa Rica, Egypt, Iraq, Ireland, Luxembourg, Malawi, Malaysia, Panama, Poland, Seychelles, Switzerland, United States, Zimbabwe**. This information will also be included in the Committee's report next year.

31st to 84th Sessions

113. The Committee welcomes the special efforts made, particularly by the Governments of **Croatia, Liberia** and **Zimbabwe**, for the submission to the competent authorities of the instruments adopted by the Conference over several sessions.

General aspects

114. At its 69th Session (November-December 1998), the Committee expressed a number of general considerations on the manner in which the obligations relating to the submission to the competent authorities of the instruments adopted by the Conference are being met. The Committee refers to its comments and recalls that the principal objective of the Constitution was, and still is, that the instruments adopted by the Conference would be brought to the knowledge of the public through their submission to a parliamentary body.[13] Even in cases where, under the terms of the Constitution of the Member, legislative power is held by the executive, it is in conformity with the spirit of the provisions of article 19 of the Constitution of the ILO and of practice to arrange for the examination of the instruments adopted by the Conference by a deliberative body, where one exists. Discussion in a deliberative assembly, or at least information of the assembly, can constitute an important factor in the complete examination of a question and in a possible improvement of the measures taken at the national level to give effect to the instruments adopted by the Conference, as explained in the *Memorandum concerning the obligation to submit Conventions and Recommendations to the competent authorities*, adopted by the Governing Body in 1980.

115. The Committee notes that governments are sometimes bound to undertake in-depth consultations with a number of administrative bodies or sectors concerned, or to await the recommendations of tripartite bodies. These measures may entail a certain explicable delay, but in no case may they be a substitute for submission to a legislative body. As the Committee recalls in this year's General Survey, Article 5, paragraph 5.1(b), of the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), provides that member States which have ratified the Convention are bound to operate procedures which ensure effective consultations between representatives of the government, of employers and of workers on the proposals to be made to the competent authority or authorities in connection with the requirement to submit the instruments adopted by the Conference to them. The Committee emphasizes that the effectiveness of these consultations presupposes that the representatives of employers and of workers have at their disposal sufficiently in advance all the elements necessary for them to reach their opinions before the government finalizes its definitive decision. Member States which have not yet ratified Convention No. 144 may refer to the relevant provisions of the Tripartite Consultation (Activities of the International Labour Organisation) Recommendation, 1976 (No. 152).

116. Lastly, under the terms of article 23, paragraph 2, of the Constitution, it is of paramount importance to ensure that the representative organizations of employers and workers receive copies of any communications addressed to the ILO concerning the submission to the competent authorities of instruments adopted by the Conference. This provision is designed to enable employers' and workers' organizations to formulate their own observations on the action that has been taken or needs to be taken with regard to the instruments in question.

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[13] See ILC, Report I, *Future policy, programmes and status of the International Labour Organization*, Appendix I: "The nature of the competent authority contemplated by article 19 of the Constitution of the International Labour Organization", Montreal, 1944.

Comments of the Committee and replies from governments

117. As in its previous reports, in section III of Part Two of this report, the Committee makes individual observations on the points that it considers should be brought to the special attention of governments. In addition, requests with a view to obtaining supplementary information on other points have been addressed directly to a number of countries, which are listed at the end of section III.

118. The Committee wishes once again to emphasize the importance of the communication by governments of the information and documents called for in *points I and II of the questionnaire* at the end of the Memorandum of 1980. The Committee has to be able to examine a summary or a copy of the documents by which the instruments have been submitted to the parliamentary bodies and the proposals made as to the effect to be given to the instruments adopted by the Conference. The Committee stresses the fact that the obligation to submit is not completed until the instruments adopted by the Conference have been submitted to the parliament and a decision has been taken with respect to them. This decision and the information on the submission to parliament must be communicated to the Office. The Committee trusts that the governments concerned will take suitable measures, as requested in the observations and direct requests addressed to them.

Special problems

119. The Committee notes with regret that the governments of the following 24 countries have not provided information indicating that the instruments adopted by the Conference during at least the last seven sessions (from the 79th to the 85th Sessions) have in fact been submitted to the competent authorities: **Afghanistan, Belize, Benin, Cambodia, Cameroon, Central African Republic, Comoros, Congo, Guinea Bissau, Haiti, Honduras, Kyrgyzstan, Mali, Papua New Guinea, Saint Lucia, Sao Tome and Principe, Senegal, Seychelles, Sierra Leone, Solomon Islands, Somalia, Swaziland, Syrian Arab Republic, Yemen**. The fact that these countries, and most of the situations referred to in the observations contained in Part Three of this report, have accumulated a long backlog in this context is a cause of deep concern to the Committee. Indeed, there is a danger that some of them may find it very difficult, or even impossible, to bring themselves up to date. Furthermore, neither the legislative authorities nor public opinion in these countries are regularly informed of the existence of new instruments as they are adopted by the Conference, which defeats the real purpose of the obligation of submission as explained in the preceding paragraphs.

120. The Committee recalls that governments have complete freedom as to the nature of the proposals to be made when submitting the instruments and on the effect that they consider it appropriate to give to the instruments adopted by the Conference. The obligation to submit the instruments does not imply any obligation to propose the ratification of Conventions and Protocols, or to accept the Recommendations. The nature and the scope of the obligation to submit these instruments has been recalled in individual observations made to certain States, taking into account the explanations provided by them in their reports. The Committee firmly hopes that the governments concerned will undertake to submit the instruments adopted at the sessions concerned rapidly and that it will be able to note the progress achieved in this respect in its next report. Finally, the Committee recalls the possibility available to governments to call on the Office for the technical assistance that it is able to provide in order to endeavour to resolve this type of problem, particularly through the multidisciplinary advisory teams.

VII. Instruments chosen for reports under article 19 of the Constitution

121. In accordance with the decisions taken by the Governing Body, governments were requested to supply reports under article 19, paragraphs 5 and 7, of the ILO Constitution on the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), and on the Tripartite Consultation (Activities of the International Labour Organisation) Recommendation, 1976 (No. 152).

122. A total of 258 reports were requested and 136 received.[14] This represents 52.71 per cent of the reports requested.

123. The Committee notes with regret that, for the past five years, none of the reports on unratified Conventions and Recommendations requested under article 19 of the ILO Constitution has been received from the following 23 countries: **Afghanistan, Algeria, Armenia, Bosnia and Herzegovina, Burundi, Comoros, Djibouti, Equatorial Guinea, Fiji, Georgia, Grenada, Haiti, Liberia, Libyan Arab Jamahiriya, Malawi, Republic of Moldova, Nigeria, Rwanda, Saint Lucia, Solomon Islands, Somalia, The former Yugoslav Republic of Macedonia, Turkmenistan**.

124. The Committee urges governments once again to provide the reports requested so that its General Surveys can be as comprehensive as possible.

125. Part Three of this report (issued separately as Report III (Part 1B)) contains the General Survey of the reports relating to the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), and the Tripartite Consultation (Activities of the International Labour Organisation) Recommendation, 1976 (No. 152). In accordance with the practice followed in previous years, the Survey has been prepared on the basis of a preliminary examination by a working party comprising four persons appointed by the Committee from among its members.

* * *

126. Lastly, the Committee would like to express its appreciation for the invaluable assistance again rendered to it by the officials of the Office, whose competence and devotion to duty make it possible for the Committee to accomplish its increasingly complex task in a limited period of time.

Geneva, 10 December 1999.

(Signed) Sir William Douglas,
Chairperson.

E. Razafindralambo,
Reporter.

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[14] ILO: Report III (Part 1B), ILC, 88th Session, 2000.

Appendix. List of observations made by employers' and workers' organizations

Afghanistan

	on Convention No.
• International Confederation of Free Trade Unions (ICFTU)	111

Argentina

	on Convention No.
• Latin-American Confederation of Labour Inspectors	81

Australia

	on Convention No.
• Australian Council of Trade Unions (ACTU)	98

Bangladesh

	on Convention No.
• Bangladesh Agricultural Farm Labour Federation	11

Barbados

	on Conventions Nos.
• Barbados Workers' Union (BWU)	98, 172

Bolivia

	on Conventions Nos.
• Bolivian Central of Workers (COB)	87, 95, 102, 128

Brazil

	on Conventions Nos.
• International Confederation of Free Trade Unions (ICFTU)	29
• Stevedores' Trade Union of Santos, São Vicente, Guarujá and Cubatão	137
• Union of Workers in the Marble, Granite and Limestone Industry in the State of Espirito Santo (SINDIMARMORE)	81, 119, 139, 148, 155

Central African Republic

	on Convention No.
• Democratic Organization of African Workers' Trade Union	95

Chile

	on Conventions Nos.
• College of Teachers of Chile A.G.	35, 37

Colombia

	on Conventions Nos.
• General Confederation of Democratic Workers (CGTD)	95, 98
• Union of the Workers of the Telecommunication Enterprise of Santafé de Bogotá	87, 98
• Union of Workers in the Textile Industry of Colombia	87, 95, 98
• World Federation of Trade Unions (WFTU)	87

Croatia

	on Conventions Nos.
• Pensioners' Trade Union of Croatia-Croatian Association of Unions	48, 102

Cuba

	on Convention No.
• World Confederation of Labour (WCL)	111

Cyprus

	on Convention No.
• Trades Union Congress (TUC)	111

Finland	**on Conventions Nos**
"Chydenius-Seura 96"	144
Central Organization of Finnish Trade Unions (SAK)	81, 98, 111, 121, 148, 155, 156, 158, 159, 160, 161, 162
Commission for Local Authority Employers	154, 161
Confederation of Finnish Industry and Employers (TT)	160
Confederation of Finnish Industry and Employers (TT); Employers' Confederation of Service Industries (LTK) [jointly]	81, 121, 154
Confederation of Unions for Academic Professionals in Finland (AKAVA)	98, 111, 121, 151, 156, 160, 161
Finnish Confederation of Salaried Employees (STTK)	98, 154, 158
Union of Health Professionals	149

France	**on Convention No.**
French Democratic Confederation of Labour (CFDT)	159

Germany	**on Convention No.**
German Confederation of Trade Unions (DGB)	160

Honduras	**on Conventions Nos**
Single Confederation of Workers of Honduras (CUTH)	42, 81, 87, 98, 105, 111

India	**on Conventions Nos.**
"Gujarat Mazdoor Panchayat"	26
Centre of Indian Trade Unions (CITU)	89
International Confederation of Free Trade Unions (ICFTU)	29
National Front of Indian Trade Unions	42, 89

Indonesia	**on Convention No.**
Federation of All Indonesian Trade Unions	144

Ireland	**on Conventions Nos.**
Scheme Workers Alliance	29, 105, 122
Transport and General Workers Union	29, 105, 122

Italy	**on Convention No.**
Federation of Agroindustry Workers (FLAI)	11

Japan	**on Conventions Nos.**
All Japan Shipbuilding and Engineering Union	29
Federation of Korean Trade Unions	29
Japan Federation of Prefectural and Municipal Workers' Unions (JICHIROREN)	87
Japan National Hospital Workers' Union	100
Japanese Trade Union Confederation (JTUC-RENGO)	98, 156, 159
Korean Confederation of Trade Unions	29
Osaka Fu Special English Teachers Union	29

Korea, Republic of	**on Conventions Nos.**
Federation of Korean Trade Unions	81, 100, 160
Korea Employers' Federation (KEF)	81

Latvia	**on Convention No.**
Latvian Free Trade Union Federation (LBAS)	144

Mauritius

	on Conventions Nos.
• Federation of Progressive Unions (FPU)	81
• Mauritius Employers' Federation (MEF)	105

Mexico

	on Conventions Nos.
• "Sindicato Nacional de Trabajadores Asalariados del Campo, similares y conexos de la República Mexicana"	12
• Authentic Front of Labour	169
• Confederation of Industrial Chambers of the United States of Mexico (CONCAMIN)	11, 12, 17, 42, 87, 105, 111, 144, 150, 160
• Confederation of Workers of Mexico (CTM)	17, 42, 87, 105, 111, 118, 144, 150, 155, 160
• Trade Union Delegation of Radio Education	169

Moldova, Republic of

	on Conventions Nos.
• General Federation of Trade Unions of the Republic of Moldova	98, 103, 105, 135
• National Confederation of Employers of the Republic of Moldova	105, 144

Myanmar

	on Convention No.
• International Confederation of Free Trade Unions (ICFTU)	29

Netherlands

	on Conventions Nos.
• Netherlands Trade Union Confederation (FNV)	98, 111, 154

Netherlands (Aruba)

	on Conventions Nos.
• Public Employees Union of Aruba	2, 29, 105
• Teachers Union of Aruba (SIMAR)	12, 138

New Zealand

	on Conventions Nos.
• New Zealand Council of Trade Unions (NZCTU)	11, 12, 17, 63, 81, 111, 144
• New Zealand Employers' Federation (NZEF)	17, 42, 63, 81, 111, 144

Nigeria

	on Conventions Nos.
• Nigeria Employers' Consultative Association	87, 98, 144

Norway

	on Conventions Nos.
• Confederation of Norwegian Business and Industry (NHO)	8, 108, 147
• Confederation of Trade Unions (LO)	122
• Norwegian Federation of Oil Workers' Unions (OFS)	87, 170
• Norwegian Shipowners' Association	8, 108

Pakistan

	on Conventions Nos.
• All Pakistan Federation of Trade Unions (APFTU)	18, 87, 98, 105, 111, 144, 159
• International Confederation of Free Trade Unions (ICFTU)	29

Paraguay

	on Convention No.
• Latin-American Confederation of Labour Inspectors	81

Peru

	on Conventions Nos.
• "Sindicato de Capitanes Patrones de Pesca de Puerto Supe y Anexos"	55, 56
• General Confederation of Workers of Peru	98
• Single Central of Workers of Peru (CUT)	169

Poland

	on Convention No.
• Independent Self-Governing Trade Union Solidarity (SOLIDARNOSC)	81

Portugal

	on Conventions Nos.
• Confederation of Portuguese Industry (CIP)	17, 18, 81, 102, 111, 144, 171
• General Confederation of Portuguese Workers (CGTP)	144

Russian Federation

	on Convention No.
• Russian Cultural Workers' Union	95

Seychelles

	on Convention No.
• Seychelles Federation of Workers' Unions (SFWU)	87

Spain

	on Conventions Nos.
• General Union of Workers (UGT)	1, 30, 44, 88, 96, 100, 102, 122

Sri Lanka

	on Conventions Nos.
• Employers Federation of Ceylon	81
• Government Service Labour Officers Association	81
• Lanka Jathika Estate Workers' Union	5, 11, 18, 81, 87, 96, 98, 100, 103, 131, 135, 144, 160

Sudan

	on Convention No.
• International Confederation of Free Trade Unions (ICFTU)	29

Swaziland

	on Conventions Nos.
• Swaziland Federation of Trade Unions	29, 87

Thailand

	on Convention No.
• Employers Confederation of Thailand	88

Turkey

	on Conventions Nos.
• Confederation of Progressive Trade Unions of Turkey (DISK)	87, 98
• Confederation of Turkish Real Trade Unions	144
• Confederation of Turkish Trade Unions (TÜRK-IS)	26, 42, 81, 105, 111, 118, 127, 144
• Turkish Confederation of Employers' Associations (TISK)	26, 42, 81, 105, 111, 118, 127, 144, 158
• Workers' House of the Islamic Republic of Iran	111

Ukraine

	on Convention No.
• Federation of Trade Unions of Ukraine (FTUU)	95

United Kingdom

	on Conventions Nos.
• Trades Union Congress (TUC)	29, 98

United Kingdom (Isle of Man)

	on Convention No.
• Isle of Man Trades Council	160

Uruguay

	on Convention No.
• Latin-American Confederation of Labour Inspectors	81

Venezuela

	on Conventions Nos.
• World Confederation of Labour (WCL)	87, 95, 98, 122

PART TWO

Observations concerning particular countries

OBSERVATIONS CONCERNING PARTICULAR COUNTRIES

I. Observations concerning reports on ratified Conventions
(article 22 of the Constitution)

A. General observations

Afghanistan

The Committee notes with regret that, for the third year in succession, the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to supply reports on the application of ratified Conventions, in accordance with its constitutional obligations, if necessary requesting appropriate assistance from the Office.

Armenia

The Committee notes with regret that, for the fifth year in succession, the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to supply reports on the application of ratified Conventions, in accordance with its constitutional obligations, if necessary requesting appropriate assistance from the Office. The Committee also notes that the first report due since 1995 on Convention No. 111 has not been received; nor have the first reports due since 1996 on Conventions Nos. 100, 122, 135 and 151, nor the first report due since 1998 on Convention No. 174. It trusts that the Government will not fail in future to discharge its obligation to supply the reports due on the application of these Conventions.

Bolivia

The Committee notes that the first report on Convention No. 159, due since 1998, has not been received. It trusts that in future the Government will not fail to discharge its obligation to supply the report due on the application of this Convention. The Committee further notes with regret that for the second year in succession, most of the reports received, under article 22 of the Constitution, have not been communicated to the organizations of employers and workers, in accordance with article 23, paragraph 2. It expresses the hope that in future the Government will not fail to discharge this obligation under the ILO Constitution.

Bosnia and Herzegovina

The Committee notes with regret that, for the second year in succession, the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to supply the reports due on the application of ratified Conventions.

Burkina Faso

The Committee notes with regret that, for the second year in succession, the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to supply reports on the application of ratified Conventions, in accordance with its constitutional obligations, if necessary requesting appropriate assistance from the Office.

Comoros

The Committee notes with regret that, for the second year in succession, the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to supply reports on the application of ratified Conventions, in accordance with its constitutional obligations, if necessary requesting appropriate assistance from the Office.

Democratic Republic of the Congo

The Committee notes with regret that, for the third year in succession, the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to supply reports on the application of ratified Conventions, in accordance with its constitutional obligations, if necessary requesting appropriate assistance from the Office.

Djibouti

The Committee notes with regret that, for the second year in succession, the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to supply reports on the application of ratified Conventions, in accordance with its constitutional obligations, if necessary requesting appropriate assistance from the Office.

Equatorial Guinea

The Committee notes with regret that, for the second year in succession, the reports due have not been received. The Committee also notes that the first reports due since 1998 on Conventions Nos. 68 and 92 have not been received. It trusts that the Government will not fail in future to discharge its obligation to supply reports on the application of ratified Conventions, in accordance with its constitutional obligations, and if necessary requesting appropriate assistance from the Office.

Georgia

The Committee notes with regret that, for the third year in succession, the reports due have not been received. The Committee also notes that the first reports due since 1998 on Conventions Nos. 105 and 138 have not been received. It trusts that the Government will not fail in future to discharge its obligation to supply reports on the application of ratified Conventions, in accordance with its constitutional obligations, and if necessary requesting appropriate assistance from the Office.

Grenada

The Committee notes that the first report due since 1996 on Convention No. 100 has not been received. It trusts that the Government will not fail in future to discharge its obligation to supply the report due on the application of this Convention.

Jamaica

The Committee notes that the first report due since 1998 on Convention No. 144 has not been received. It trusts that the Government will not fail in future to discharge its obligation to supply the report due on the application of this Convention.

Kyrgyzstan

The Committee notes with regret that the first report due since 1995 on Convention No. 133 has not been received. It trusts that the Government will not fail in future to discharge its obligation to supply the report due on the application of this Convention.

Liberia

The Committee once again notes the evolution of the national situation and trusts that the Government will not fail in future to discharge its obligation to supply the first report due on the application of Convention No. 133, in accordance with its constitutional obligations, if necessary requesting appropriate assistance from the Office.

Mali

The Committee notes with regret that the first reports due since 1997 on Conventions Nos. 141 and 151 have not been received. Considering the Government's intention to rectify the situation, the Committee hopes that appropriate measures will be taken to ensure that the first reports due and the reports on ratified Conventions are supplied.

Mongolia

The Committee notes that the first report due since 1998 on Convention No. 135 has not been received. It trusts that the Government will not fail in future to discharge its obligation to supply the report due on the application of this Convention.

Saint Lucia

The Committee notes with regret that, for the eighth year in succession, the reports have not been received. It trusts that the Government will not fail in future to discharge its obligation to supply reports on the application of ratified Conventions, in accordance with its constitutional obligations, if necessary requesting appropriate assistance from the Office.

Sao Tome and Principe

The Committee notes with regret that, for the second year in succession, the reports have not been received. It trusts that the Government will not fail in future to discharge its obligation to supply reports on the application of ratified Conventions, in accordance with its constitutional obligations, if necessary requesting appropriate assistance from the Office.

Sierra Leone

The Committee notes that the reports due have not been received. While taking note of the national situation, it hopes that appropriate measures will be taken to ensure application of the ratified Conventions as soon as circumstances so permit.

Solomon Islands

The Committee notes with regret that, for the second year in succession, the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to supply reports on the application of ratified Conventions, in accordance with its constitutional obligations, if necessary requesting appropriate assistance from the Office.

Somalia

The Committee notes that the reports due have not been received. While taking note of the national situation, it hopes that appropriate measures will be taken to ensure application of ratified Conventions as soon as circumstances so permit.

United Republic of Tanzania

Zanzibar

The Committee notes with regret that, for the third year in succession, the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to supply reports on the application of ratified Conventions, in accordance with its constitutional obligations, if necessary requesting appropriate assistance from the Office.

The former Yugoslav Republic of Macedonia

The Committee notes with regret that, for the second year in succession, the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to supply reports on the application of ratified Conventions, in accordance with its constitutional obligations, if necessary requesting appropriate assistance from the Office.

Uzbekistan

The Committee notes with regret that, for the fourth year in succession, the reports due have not been received. The Committee also notes that the first reports due since 1996 on Conventions Nos. 47, 52, 103 and 122, as well as the first reports due since 1998 on Conventions Nos. 29 and 100, have not been received. It trusts that the Government will not fail in future to discharge its obligation to supply reports on the application of ratified Conventions, in accordance with its constitutional obligations, and if necessary requesting appropriate assistance from the Office.

Yugoslavia

In the light of the decisions adopted by the competent bodies of the United Nations considering that the Federal Republic of Yugoslavia (Serbia and Montenegro) cannot automatically ensure the continuity of membership of the former Federal Socialist Republic of Yugoslavia, as well as the inferences drawn from this by the ILO Governing Body, the Committee considers it preferable, in order not to prejudge this question, not to proceed to examine the application of the Conventions ratified by the former Federal Socialist Republic of Yugoslavia.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Antigua and Barbuda, Benin, Bolivia, Botswana, Burundi, Cameroon, Cape Verde, Central African Republic, Ethiopia, Fiji, Gabon, Ghana, Grenada, Guinea, Guinea-Bissau, Islamic Republic of Iran, Iraq, Jamaica, Kuwait, Kyrgyzstan, Lesotho, Liberia, Libyan Arab Jamahiriya, Malaysia, Malaysia (Peninsular Malaysia), Malaysia (Sabah), Malaysia (Sarawak), Malta, Mauritania, Nepal, Niger, Slovakia, Swaziland, Sweden, Syrian Arab Republic, Tajikistan, United Republic of Tanzania, Trinidad and Tobago, Turkmenistan, Uruguay, Yemen.*

B. Individual observations

Convention No. 1: Hours of Work (Industry), 1919

Belgium (ratification: 1926)

The Committee notes the Government's report and the information given in reply to its 1994 direct request. It notes again that no amendment has been made to the regulations relating to working hours since the adoption of the Act of 17 March 1987 respecting the introduction of new work rules in enterprises, which authorizes generally the use of a calculation based on normal average working hours over a period of up to one year with the sole restriction that daily working hours do not exceed 12 hours. The Government indicates in its report that these regulations were set in agreement with the social partners and constitute a means of making working hours flexible, made necessary by the economic context. Finally, the Government suggests revision of the Convention.

On this matter, the Committee wishes to draw the Government's attention to the fact that respect for daily and weekly limits on working hours are essential guarantees for safeguarding workers' health and welfare and protecting them against the possibility of abuse. Hence the possibility of establishing the daily hours of work over a period longer than the week, provided in *Article 5 of the Convention*, is restricted to cases in which the limits on normal working hours set out in *Article 2* are recognized as inapplicable. This may concern, in particular, branches of activity in which the nature of the work, technical reasons or seasonal variations and pressure of work require an irregular distribution of working time. In this context, the Committee indicated in its 1967 General Survey on hours of work that cases where calculation of the normal average working hours over a period exceeding a week is permitted must be exceptional and restricted to certain branches of activity where technical requirements so justified (paragraph 142).

The Committee must point out once again that the Act of 17 March 1987 respecting the introduction of new work rules in enterprises by admitting, in general and in all sectors of activity, exceptions to normal working hours are firmly against the provisions of *Article 5* of the Convention. The Government is urged to take the Committee's comments into account in order to take the necessary measures to ensure conformity of the national regulations with the Convention.

Canada (ratification: 1935)

The Committee notes the Government's report for the period ending May 1998 and the information provided in reply to its previous comments. The Committee once again notes the difficulties encountered by the Government in harmonizing the federal and provincial regulations with the provisions of the Convention, particularly with regard to the maximum length of the working day prescribed by *Article 2 of the Convention* and the determination of the circumstances and limits within which exceptions to normal working hours may be allowed *(Article 6)*. The Committee is bound once again to express the hope that the Government will take the necessary action to ensure the application of these provisions of the Convention and that it will take into account the points raised by the Committee in a request addressed directly to the Government.

Chile (ratification: 1925)

The Committee notes the Government's last report on the application of the Convention and the information supplied in response to its observation of 1994. It notes with regret that, with regard to the application of *Articles 2(b) and 6 of the Convention*, on which the Committee has been commenting for very many years, the Government merely repeats the arguments put forward in its previous report.

The Government indicates that the distribution of weekly hours of work over five days, as provided in section 28 of the Labour Code, which means exceeding the daily maximum of nine hours allowed by *Article 2(b)* of the Convention, is justified because the worker is granted an additional day of rest. The Government emphasizes that such distribution is voluntary, exceptional and limited. The Committee wishes to recall that

Article 2(b) was so drafted as to stress the need to protect workers by placing a limit on the number of hours that may be worked per day in excess of the daily limit in the event of unequal distribution of the working week. To that end, daily overtime is restricted to one hour. The Committee requests the Government to communicate any relevant information as regards the number of workers covered by this exceptional working-time arrangement.

Furthermore, the Government indicates that the provisions of sections 30 and 31 of the Labour Code, which allow overtime of up to two hours per day in certain jobs, are adequately restricted by section 29, which lays down the exceptions which may be allowed to normal daily working hours. The Committee wishes to remind the Government, however, that reasonable limits to such exceptions need to be set. To allow two hours' overtime per day without establishing other safeguards, such as a monthly or annual limit, is contrary to the provisions of *Article 6, paragraph 2*, of the Convention and the intent of the Conference, in that it could lead to abuses. Consequently, the Committee again asks the Government to take the necessary measures to ensure that this Article of the Convention is fully applied.

Costa Rica (ratification: 1982)

The Committee notes the Government's last report on the application of the Convention. It notes with satisfaction the adoption of Act No. 7679 of 17 July 1997 repealing section 146 of the Labour Code. It also notes the Government's statement that it wishes to take the necessary measures to bring the national legislation into conformity with the provisions of *Articles 2(b) and 6, paragraph 1, of the Convention*. The Committee is aware that the Ministry of Labour and Social Security applied to the Office in 1998 for technical assistance, and trusts that the Government will be in a position to provide detailed information on progress made in this respect in its next report.

Cuba (ratification: 1934)

The Committee notes the information supplied by the Government in response to its direct request of 1993. It notes the Government's statement that the system applying to the construction brigades, which depends on the circumstances of the "special period", is still in force. The Committee is bound to recall that in its last report the Government indicated that the system was to apply temporarily and that normal working time of eight hours a day and 44 hours a week, set in section 67 of the Labour Code, would be re-established as soon as circumstances allowed. The Committee also notes that the statistics of the Labour Inspectorate for 1997 show a working day of up to ten hours for a very large majority of the workers. It recalls that, where working time is distributed unevenly over a week, maximum daily overtime may not exceed one hour according to *Article 2(b) of the Convention*. It also wishes to recall that, under *Article 5* of the Convention, when the average number of hours worked is reckoned on the basis of a period longer than one week, the length of the period must be set in advance by the authority or the competent body. In these circumstances, the Committee trusts that the Government will embark upon the necessary action in the near future to re-establish, in law and in practice, hours of work which are consistent with the prescriptions of the Convention.

The Committee notes the information on the content of the provisions of section 70 of the Labour Code. It recalls the abovementioned prescriptions of *Article 5* of the Convention and asks the Government to provide copies of any regulations which may have been issued by the competent authority pursuant to this Article.

Lastly, the Committee notes the brief indications supplied by the Government concerning the system of remuneration for overtime established in Chapter IV of the Labour Code, and again asks the Government to supply any regulations issued under the above chapter by the competent authority.

Equatorial Guinea (ratification: 1985)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> Further to its previous comments concerning *Article 6 of the Convention*, the Committee notes with satisfaction the provisions of Act No. 2/1990, issuing the general labour regulations, which set out the permanent and temporary exceptions to normal working time that are authorized (section 49). It also notes the provisions of the same Act concerning the exceptions to be allowed in case of accident, actual or threatened, or in case of urgent work, or in case of *force majeure*, in accordance with *Article 3*.
>
> The Committee would be grateful if the Government would provide the text of the regulations implementing section 49 of the Act No. 2/1990, which are to be made after consultation with employers' and workers' organizations. It notes in this connection the Government's statement that Act No. 12/1992 of 1 October 1992, respecting trade unions and collective labour relations, opens up prospects for the formation of workers' and employers' organizations which will have a role to play in making regulations and fixing working conditions.
>
> More generally, the Committee asks the Government to provide information on the way in which the Convention is applied, including, for example, extracts of labour inspection reports or statistics, as requested in the report form *(Part VI)*.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Iraq (ratification: 1965)

The Committee notes the information that a Bill is being prepared with a view to setting a limit on the number of hours of overtime which may be allowed and that a copy of it will be sent to the Office as soon as it is published. The Committee recalls that the need to bring the national legislation into conformity with *Article 6 of the Convention* has been the subject of comments for numerous years.

Nicaragua (ratification: 1934)

The Committee notes with interest the information in the Government's report on the application of the Convention. With reference to its observation of 1993, it notes that Act No. 185 of 30 October 1996 makes several amendments to the Labour Code, one of which is that a maximum of three hours per day and nine hours per week of overtime has been set (section 58), which constitutes real progress in the application of *Articles 6 and 7 of the Convention*. The Committee also notes the detailed information supplied by the Government in accordance with *Part VI of the report form* and asks it to continue to supply such information to allow the Committee better to assess how effect is given to the provisions of the Convention.

Peru (ratification: 1945)

The Committee notes the Government's latest report on the application of the Convention and the information supplied in response to its observation of 1997. The Committee previously noted the adoption of Legislative Decree No. 854 on the duration of work, working hours and overtime hours and the comments by the General Confederation of Peruvian Workers (CGTP) to the effect that some provisions of the abovementioned Decree could lead to abuse and even contravene the Constitution.

The CGTP alleged that the discretion afforded to the employer by section 2 of Decree No. 854 to change unilaterally the length of the working day is excessive; it contravenes the rules established by collective agreements and is restricted only by the requirement that the working week shall not exceed 48 hours. In its reply, the Government indicates that the prerogatives granted to the employer by the Decree are offset by section 9 of Presidential Decree No. 008-97-TR, which allows recourse to a conciliatory or judicial body in the event of disagreement between the employer and the workers. The Government adds that, under sections 4 and 5 of the Presidential Decree, changes determined by the employer may not affect entitlement to weekly rest or rest on public holidays. In connection with these points, the Committee wishes to draw the Government's attention to the fact that the authorization granted to the employer by section 2 of the Decree to fix unilaterally a working day of more than eight hours (paragraph (b)) or the number of working days per week (paragraph (c)) is not among the exceptions envisaged by the Convention, in particular in *Article 2(b)*, in that, in the workers' interest, the Convention expressly requires exceptions to be determined by collective agreements or a decision of the competent authority. Consequently, the Committee once again asks the Government to take the necessary steps to bring the national legislation into conformity with the abovementioned provisions of the Convention.

The CGTP further alleged that section 3 of Decree No. 854, which enables the employer unilaterally to extend a working day of less than eight hours, is in breach of article 62 of the Peruvian Constitution which guarantees that the provisions of laws or regulations in force at the time a contract is signed remain applicable to it notwithstanding the adoption of new laws or regulations. The Committee notes the Government's reply on this point.

Spain (ratification: 1929)

The Committee notes the Government's report for the period ending September 1998. It also notes a communication from the General Union of Workers (UGT) alleging that the provisions regarding hours of work in the Workers' Statute, revised by the Legislative Decree of 24 March 1995, are not compatible with the Convention. This communication was also transmitted to the Government which, to date, has not commented thereon.

The Committee wishes to draw the Government's attention to the abuse which could arise from the strict application of the provisions of section 34 of the Workers'

Statute, and in particular its paragraphs 2 and 3. The Committee observes that the first paragraph of the section cited fixes normal weekly hours of work at 43 hours, but that it is provided that daily hours of work shall be established by collective agreements or employment contracts. It notes that paragraph 2 of the section provides for the possibility of recourse, through collective agreement or agreements at enterprise level, to irregular daily hours of work calculated according to a yearly average. These hours of work are only limited by the obligation to respect 12 hours of rest between working days granted under paragraph 3. In this connection the Committee wishes to remind the Government that the possibility of establishing daily hours of work over a longer period of time than a week, provided under *Article 5 of the Convention*, is only applicable to exceptional cases where it is recognized that the provisions of *Article 2* cannot be applied. In particular it may concern any branch of activity which requires an irregular distribution of work due to the nature of the work, to technical reasons, to periodic pressure of work, or to seasonal variations. Consequently the Committee considers that by admitting the general possibility of exceptions to normal working hours, section 34, paragraph 2, of the Workers' Statute is in violation of *Article 5* of the Convention.

Furthermore, section 34, paragraph 3, fixes maximum daily working hours at nine hours, and provides for exceptions thereto by collective agreements or agreements at enterprise level, subject only to respect of the 12 hours of rest granted between working days. In this connection the Committee wishes to draw the Government's attention to *Article 2(b)* of the Convention, which allows for recourse to an irregular distribution of normal working hours, but within the limit of one hour more than eight hours of work a day. It thus considers that section 34, paragraph 3, of the Workers' Statute is in violation of the provisions of *Article 2* of the Convention.

The Committee trusts that the Government will take the steps necessary at the earliest date, to bring its legislation into conformity with the provisions of the Convention on the two abovementioned points, and requests it to report on progress achieved in this respect as soon as possible.

Syrian Arab Republic (ratification: 1960)

The Committee has been drawing the Government's attention for many years to the fact that the provisions of section 117 of the Labour Code, which provide that "hours of work and pauses must be organized in such a fashion that the presence of the worker at the workplace does not exceed 11 hours a day", are liable to result in abuse and reminds it of the need to amend these provisions so as not to require the presence of the worker at the workplace beyond the limits of normal working hours which, in accordance with *Article 2 of the Convention*, must not exceed eight in the day. In this connection, the Committee notes with interest a communication sent by the Government to the ILO in July 1999 which indicates that, taking account of the comments formulated by the Committee in its previous observation, it has begun preparation of a new draft Legislative Decree to amend the Labour Code accordingly. The Committee requests the Government to inform the ILO on the progress achieved in this respect.

Venezuela (ratification: 1945)

The Committee notes the Government's report and the information supplied in response to some of the points raised in its direct request of 1995. With reference to its previous comments, the Committee notes once again that the application of section 206 of the Organic Labour Act (LOT) is not restricted to the exceptions expressly provided under the Convention, nor does this provision require a limit to be set for daily overtime where ordinary working hours are unevenly distributed over the week, as prescribed by *Article 2(b) of the Convention.* The obligation to make compensatory arrangements for overtime and the requirement that the total number of hours worked in a period of eight weeks shall not exceed 44 hours per week on average, both of which are established in section 206 of the LOT, do not afford adequate safeguards to prevent abuse and hence ensure that the Convention is fully applied. In these circumstances, the Committee would be grateful if the Government would take the necessary steps to bring its legislation into line with the provisions of the Convention.

The Committee further notes that the Government does not indicate, as it was asked, the measures envisaged to ensure that working hours do not exceed eight hours per day and 48 hours per week in respect of minors who provide domestic labour (section 256 of the LOT), domestic workers who live on the premises where they work (section 275 of the LOT) and outworkers (section 294 of the LOT), who do not appear to be covered by section 195 of the LOT. It therefore asks the Government to provide the information requested in its next report.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Angola, Bulgaria, Canada, Comoros, Czech Republic, Djibouti, Lebanon, Libyan Arab Jamahiriya, Lithuania, Saudi Arabia, United Arab Emirates.*

Convention No. 2: Unemployment, 1919

A request regarding certain points is being addressed directly to *Kenya.*

Convention No. 3: Maternity Protection, 1919

A request regarding certain points is being addressed directly to *Mauritania.*

Convention No. 4: Night Work (Women), 1919

Requests regarding certain points are being addressed directly to the following States: *Cambodia, Lao People's Democratic Republic.*

Convention No. 5: Minimum Age (Industry), 1919

Requests regarding certain points are being addressed directly to the following States: *Belize, Chad, Congo, Estonia, Gabon, Haiti, Latvia, Madagascar, Saint Lucia, Senegal, Seychelles, Sri Lanka, Uganda.*

Convention No. 7: Minimum Age (Sea), 1920

A request regarding certain points is being addressed directly to *Bahamas.*

Convention No. 8: Unemployment Indemnity (Shipwreck), 1920

China

Hong Kong Special Administrative Region
(notification: 1997)

The Committee notes with satisfaction that the Merchant Shipping (Seafarers) Ordinance, which entered into force on 2 September 1996, removed the restriction present in the United Kingdom Merchant Shipping Act of 1894 under which the right to unemployment indemnity was subject to proof that the seaman has done everything in his power to save the ship, passengers on board and the cargo. Under section 91 of the abovementioned Ordinance, the seaman whose employment is terminated before the date stipulated in his contract as a result of loss or foundering of the vessel, retains his right to wages for each day of unemployment for a period of two months following the date of the shipwreck, in accordance with *Article 2 of the Convention.*

Nicaragua (ratification: 1934)

The Committee notes the information communicated by the Government in its last report. It also notes the adoption of the new Labour Code (Act No. 185 of 30 October 1996), of which Book I, Title VIII, Chapter III, governs work on the sea. In this connection the Committee wishes to draw the Government's attention to the following points.

1. *Article 1, paragraph 1, of the Convention.* The Committee notes that section 161 of the Labour Code maintains the exclusion of captains and officers from the definition of the term "seamen", whereas this provision of the Convention does not permit such exclusion for purpose of entitlement to an indemnity in the event of shipwreck. It notes however that the Government envisages the possibility of aligning this section of the Labour Code with the provisions of the Convention. Consequently, it expresses the hope that in its next report the Government will indicate the measures adopted to give full effect to the Convention on this point.

2. *Article 2, paragraph 2.* The Committee notes with regret that despite the comments it has been making for many years, section 166 of the Labour Code though it provides for the payment of an indemnity to a seaman in the event of shipwreck in conformity with the law, it does not specify, as required by *Article 2, paragraph 2,* of the Convention, that the indemnity must not be less than two months' wages. The Committee therefore trusts that the Government will reconsider the question and adopt the necessary measures to amend the provisions of section 166 of the Labour Code, so that the legislation guarantees the entitlement of seamen, in the event of loss or foundering of the vessel, to payment of an indemnity for all the days of the period of unemployment arising from the shipwreck for at least two months, in conformity with this provision of the Convention.

[The Government is asked to report in detail in 2001.]

Panama (ratification: 1970)

The Committee notes the adoption of Legislative Decree No. 8 of 26 February 1998 which regulates work at sea and on inland waterways. It notes with satisfaction that under section 49 of this Decree, in the event of loss or foundering of the vessel, the shipowner or his representative is required to pay to each member of the crew employed on board the vessel an indemnity against unemployment resulting from such loss or foundering. This indemnity has to be paid for the effective period of unemployment at the same rate as the wages payable under the contract. Its total amount may however be limited to three months' basic wages.

In addition, a request regarding certain points is being addressed directly to the Government.

Portugal (ratification: 1981)

Article 2 of the Convention. In its previous comments, the Committee noted that the Government intended to revise the Regulations on Maritime Employment (Decree No. 45969 of 1964), and particularly section 239, which limits the period of unemployment indemnity in the event of shipwreck and subjects the right to compensation to the diligence shown by the crew in protecting the vessel, contrary to the provisions of the Convention. The Committee also noted the text of sections 87 and 102 of the new draft legal rules governing individual contracts of employment of personnel in the merchant marine. In its last report, however, the Government states that, as yet, no new legislative measures have been adopted. The Committee recalls that, at the time of its first report on the application of the Convention (1982), the Government referred to proposals for the revision of the maritime legislation, particularly section 239 of the Regulations on Maritime Employment mentioned above. In these circumstances, the Committee trusts that the Government will re-examine the matter and will be in a position to indicate in its next report that appropriate legislative measures have been adopted to ensure that seafarers are paid unemployment indemnity for a period of at least two months in the event of loss or foundering of the vessel, with no restrictions whatsoever, in accordance with this provision of the Convention.

[The Government is asked to report in detail in 2001.]

Seychelles (ratification: 1978)

Article 2, paragraph 1, of the Convention. In its previous comments, the Committee noted that the restriction provided for under section 9, paragraph 1, of the Merchant Shipping (Masters and Seamen) Regulations 1995, is not compatible with the Convention. The entitlement of the seaman to receive wages in the event of shipwreck, provided under section 10 of the same Regulations, is barred where it can be proved that the seaman has not exerted himself to the utmost to save the ship, cargo and stores. The Government reports in this connection, that this question has been referred to the Ministry of Environment and Transport, so that appropriate measures may be taken. The Committee notes this information and trusts that the Government will not fail to take all necessary measures to bring national legislation into line with *Article 2, paragraph 1*, of the Convention, which provides for payment to seamen of unemployment indemnity during a period of at least two months in the event of shipwreck, without restriction. The Committee requests the Government to communicate a copy of all texts adopted in this connection.

[The Government is asked to report in detail in 2001.]

Sierra Leone (ratification: 1961)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> *Article 2 of the Convention.* The Committee notes from the information supplied by the Government in its report that the legislation necessary to give effect to the Convention has not yet been adopted. In view of the scant progress made in this regard despite the comments it has been making for many years, the Committee stresses once again that legislative measures should be taken to amend the Merchant Shipping Legislation so as to eliminate the bar to receipt of unemployment indemnity in case of shipwreck where it is proved that a seaman did not exert himself to the utmost to save the ship. The Committee trusts that in its next report the Government will be able to state that the necessary legislation has been adopted to ensure that full effect is given to the Convention.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Solomon Islands (ratification: 1985)

The Committee notes with regret that for the sixth consecutive time the Government's report has not been received. It hopes that a report will be supplied for examination by the Committee at its next session, together with the text of the Labour (Seamen) Rules adopted in 1985, which according to the Government's previous statement, provides for indemnity against unemployment in case of loss or foundering of a ship, without further qualifications, in conformity with this provision of the Convention.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Australia, Belgium, Costa Rica, Croatia, Dominica, Estonia, Fiji, Lebanon, Norway, Panama, Romania, Seychelles, Singapore, Spain.*

Information supplied by *Belize, Finland* and *New Zealand* in answer to a direct request has been noted by the Committee.

Convention No. 9: Placing of Seamen, 1920

Argentina (ratification: 1933)

The Committee notes the information the Government forwarded to the Office. The Government states that it has undertaken consultations with the social partners and representatives of other interested organizations regarding the issues raised in the previous observation. The Government will forward as soon as possible the outcome of these consultations and a full report which replies to the observation of 1998. The Committee looks forward to receiving this information, in particular regarding the action taken or envisaged as a result of the consultations.

Cameroon (ratification: 1970)

The Committee notes the Government's report, received in June 1999. In reply to the Committee's previous comments, the Government states that the harmonization of the legislation with *Article 5 of the Convention* is one of its constant concerns. It would appear that the maritime authority and the labour administration have met several times for this purpose. The Committee is therefore bound once again to ask the Government to take the necessary steps to set up committees consisting of an equal number of representatives of shipowners and seamen, as required by *Article 5* of the Convention, to advise on matters concerning the operation of employment offices for seamen.

Article 10. The Government is also asked to supply any available information, statistical or otherwise, concerning unemployment among seamen and the work of seamen's employment agencies, particularly available data on the activities of the employment offices in Kribi, Limbé and Douala which are relevant to seamen.

[The Government is asked to report in detail in 2000.]

Djibouti (ratification: 1978)

The Committee notes with regret that for the third consecutive year the Government's report has not been received. It must therefore repeat its 1995 observation which read as follows:

> *Article 5 of the Convention.* The Committee notes from the Government's reply to the Committee's earlier comments that there is no advisory committee consisting of an equal number of representatives of shipowners and seafarers in the country. The Committee recalls in this connection that this Article provides for the establishment of such committees to advise on matters concerning the carrying on of public employment offices for finding employment for seafarers. With reference to the comments the Committee has been making on this subject over a number of years, it expresses the hope that the Government will not fail to adopt measures in the near future in order to establish such advisory committees and to give effect to this Article of the Convention. It asks the Government to provide, in its next report, information on any progress achieved in this regard.
>
> *Article 10, paragraph 1.* Please provide statistical information as soon as it is available, concerning the number of seafarers registered and the number of placements of seafarers carried out by the Maritime Affairs Service.
>
> The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Convention No. 11: Right of Association (Agriculture) Convention, 1921

Bangladesh (ratification: 1972)

The Committee takes note of the Government's report. It also notes, the comments supplied by the Bangladesh Agricultural Farm Labour Federation (BAFLF) received in

June 1999, according to which no law has yet been enacted for agricultural workers in relation to the present Convention. BAFLF states that in 1992 the former Government established the National Labour Law Commission to analyse, add, alter, dissolve and frame labour legislation, but that nothing has been mentioned in respect of the formation of trade unions by agricultural workers. As a result, no recommendation has been made by the Commission. BAFLF also states that the Government formed a "Review Committee" to review the recommendations of the law commission but that nothing was mentioned about agricultural workers. In fact, the existing labour law is only applicable to 17 per cent of the working force and there is no legal status for 83 per cent of the labour force in the agricultural sector. According to the Government's report of 1991, the total working force is 51.2 million out of which 42.5 million are agricultural workers. It is impossible to develop agriculture and increase agricultural products by keeping such a large number of the working force unorganized.

The Committee recalls that in 1990 the Bangladesh Employers' Association had indicated that the provisions of the Industrial Relations Ordinance (IRO), 1969, applied only to agricultural workers employed in the organized sectors, namely agricultural farms, such as the tea gardens and sugar mills, and other agricultural farms run on a commercial basis and that only these enjoyed the right of association and collective bargaining and that the agricultural workers including self-employed persons were not covered by the IRO. The Government concurs with this opinion and in its previous reports had stressed that the bulk of the agricultural workers other than plantations workers, including self-employed farmers, sharecroppers and smallholders, were not covered by this law.

The Committee has also taken note that the definition of "industrial establishment" (section 2) in the Payment of Wages Act, 1936, as modified, which expressly includes plantations, i.e. any estate which is maintained for the purpose of growing cinchona, rubber, coffee or tea only applies to plantations on which 25 or more persons are employed for that purpose and thus smaller plantations are not covered by the Act.

In the light of the foregoing development, the Committee considers that there is an important gap in the legislation and the Government should take appropriate measures to modify the existing legislation or enact new laws in relation to those engaged in agriculture to ensure they enjoy the right to organize, in order to comply with its obligation to respect and fully apply this Convention.

The Committee asks the Government to provide in its next report detailed information on any legislative and other measures taken or contemplated to ensure specifically that those engaged in agriculture enjoy the same rights of association and combination as industrial workers, and to repeal any statutory or other provisions restricting such rights.

[The Government is asked to report in detail in 2000.]

Burundi (ratification: 1963)

The Committee takes note of the information contained in the Government's report.

It recalls that its previous comments concerned the necessity to amend Legislative Decree No. 1/90 of 25 August 1967 on rural associations which imposes on agricultural workers certain obligations with regard to compulsory membership, compulsory contribution and the provision of agricultural or livestock products, all those obligations being contrary to the Convention.

The Committee takes due note of the Government's statement in its last report according to which the Decree in question was never applied since its promulgation. The Government also indicates that it is urgent to expressly repeal this Decree. In this regard, the Committee requests the Government to forward it the repealing text as soon as it is adopted.

[The Government is asked to report in detail in 2000.]

Guatemala (ratification: 1988)

The Committee notes the Government's report.

The Committee recalls that its comments refer to the prohibition of strikes and work stoppages by agricultural workers during the harvest, with a few exceptions (sections 243(a) and 249 of the 1947 Labour Code, as amended in 1992). In this context, the Committee notes the Government's indication that ratification by Guatemala of the Convention postdates the Labour Code and the provisions of the former therefore prevail over the latter and it agrees with the Committee that agricultural workers must not suffer discrimination compared with other workers. In these circumstances, for the purpose of eradicating any ambiguity on the matter, the Committee requests the Government to take measures to repeal the provisions in question and to inform the Committee in its next report of any measures adopted in this respect.

Morocco (ratification: 1957)

The Committee notes the information contained in the Government's reports.

The Committee recalls that, according to the comments of the Democratic Labour Confederation (CDT) and the General Union of Workers of Morocco (UGTM), the Dahir of 16 July 1957 on trade unions does not provide adequate guarantees to ensure exercise of the right of association and the existence of trade union offices in the agricultural sector.

The Committee notes that, according to the Government, the Dahir of 16 July 1957 on trade unions was amended on 19 April 1999 to bring it into conformity with the principles in the Conventions ratified. It requests the Government to send it a copy of the amendment of 19 April 1999.

The Committee also notes that according to the Government, the draft Labour Code aims to strengthen the right to organize in the various branches of economic activities including the agricultural sector. The draft Labour Code has been submitted for consideration to a tripartite commission and that agreement has been reached on virtually all the draft provisions. It expresses the hope that the draft Labour Code will contain provisions to ensure that all persons engaged in agriculture have the same rights of association and combination as industrial workers and will give special protection to the trade union offices set up in the agricultural sector. The Committee requests the Government to inform it of any new stages in its adoption and to provide a copy of the text with its next report.

New Zealand (ratification: 1938)

The Committee notes the information provided in the Government's report, as well as the comments made by the New Zealand Council of Trade Unions (NZCTU) and the New Zealand Employers' Federation (NZEF).

The Committee notes that the NZCTU regrets the fall in union membership since the enactment of the 1991 Employment Contracts Act and the fact that over half the "collective employment contracts" in the region were negotiated without a union. [Under section 2 of the 1991 Employment Contracts Act, "collective employment contract" means an employment contract that is binding on one or more employers and two or more employees. Under section 20 of the Act, any employers may, in negotiating for a collective employer contract, negotiate with: (a) the employees themselves; or (b) if the employees so wish, any authorized representative of the employees.] Indeed, the Committee notes from the Government's report that union membership in the agricultural sector has fallen from 14,234 in December 1991 to 998 in December 1997 (out of 160,000 agricultural workers according to a recent survey) and that 12 out of 26 collective employment contracts were negotiated by a union.

The Committee notes the Government's indication that union membership was on the decline prior to the introduction of the Act and that this pattern merely continued following the introduction of voluntary union membership. It must nevertheless note that many collective employment contracts have been negotiated without a union in the agricultural sector. The Committee requests the Government to keep it informed of any practical information or statistics which might illustrate the effects of the Employment Contracts Act on agricultural workers in practice particularly given the often dispersed nature of the sector.

[The Government is asked to report in detail in 2000.]

Rwanda (ratification: 1962)

The Committee takes note of the information in the Government's report, especially the Bill revising the Act of 28 February 1967 issuing the Labour Code.

The Committee has commented since 1969 on section 186 of the Labour Code, which excludes agricultural workers from the scope of the Code. The Committee recalls that under *Article 1 of the Convention* the Government must secure for all those engaged in agriculture the same rights of association and combination as to industrial workers.

The Committee requests the Government to transmit in its next report detailed information regarding the progress of the revision of the Labour Code which includes specifically agricultural workers within its scope. It firmly hopes that the Government will take all necessary measures at an early date to make its legislation compatible with the Convention, by ensuring the same rights of association and combination for agricultural workers as for industrial workers.

[The Government is asked to report in detail in 2000.]

Sri Lanka (ratification: 1952)

The Committee notes the information supplied by the Government in its report. It also takes note of the comments supplied by the Lanka Jathika Estate Workers' Union, received in May 1999, on the poverty and the sad situation of rural workers and the lack of workers' organizations in the agricultural sector.

The Committee recalls the information provided by the Government in its previous reports to the effect that agricultural workers in Sri Lanka can be categorized into two main sectors: the plantation sector and the non-plantation sector. The Government stated that the plantation workers were well organized and were members of long-established major trade unions. It indicated that the non-plantation workers were mostly self-employed and grouped under farmers' associations, that a few of them worked for wages often on a seasonal basis, and that they were poorly organized. In its latest report, the Government states that there is no restriction for self-employed to organize themselves but adds that no data is available to show the number of trade unions of self-employed or on their membership.

The Committee considers that there is an important gap in the legislation as self-employed persons engaged in agriculture are not covered by the Trade Union Ordinance, 1935, as amended, and that the Government should take appropriate measures to modify existing statutory laws or enact new laws in relation to agricultural workers and their right to establish organizations, like industrial workers, in order to comply with its obligation to respect and fully apply this Convention.

Therefore, the Committee asks the Government to provide in its next report detailed information on any legislative and other measures taken or contemplated to ensure specifically that those engaged in agriculture enjoy the same rights of association and combination as industrial workers, and to repeal any statutory or other provisions restricting such rights.

[The Government is asked to report in detail in 2000.]

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Australia, Azerbaijan, Brazil, Estonia, Gabon, India, Mauritius, Pakistan, St. Vincent and the Grenadines, Uganda, Zambia.*

Information supplied by *Chad, Romania* and *Seychelles* in answer to direct requests has been noted by the Committee.

Convention No. 12: Workmen's Compensation (Agriculture), 1921

Nicaragua (ratification: 1934)

1. With reference to the Committee's earlier comments on the extension of the coverage of the social security system to rural areas, the Government indicates in its report communicated in 1998 that, between 1989 and 1993, the Nicaraguan Institute of Social Security (INSS) observed an appreciable reduction in the number of people affiliated and protected, especially in the agricultural sector where the quality of medical services provided by the Ministry of Health has deteriorated seriously. In 1994, the INSS set up a new social welfare model (for health and occupational risks) and concluded agreements with private and public health care providers to supply health services. Other measures have been carried out, such as the progressive establishment of the new social welfare model in the most isolated areas; the improvement of services provided for

injured beneficiaries; the massive dissemination of the information on the rights of insured persons, as well as the establishment of a plan for controlling enterprises and encouraging workers' affiliation.

The Committee notes this information and observes that the various actions undertaken have led to an increase in the insured population in the agricultural sector from 10,395 to 17,960 between 1993 and 1997. In these circumstances, the Committee hopes that the Government will continue to communicate statistical information on the number of agricultural wage earners insured against employment injury as compared with the total number of agricultural wage earners. It also hopes to receive the information on the measures taken with a view to pursuing the extension of INSS cover to rural areas so that all agricultural wage earners benefit in practice from the protection provided by the INSS in the event of employment injuries.

2. The Committee recalls that section 103 of the Labour Code allows judges to reduce the compensation due to the victims of occupational accidents employed in small agricultural enterprises. It therefore requests the Government, once again, to indicate the measures taken with a view to repealing this article so that there is no ambiguity in the legislation and that all agricultural wage earners enjoy the same benefits as those granted to other wage-earners, in accordance with the Convention.

Rwanda (ratification: 1962)

In reply to the Committee's previous comments, the Government states that agricultural wage earners, including daily and temporary workers, will only be covered by a compensation scheme for accidents after the adoption of two draft texts, one amending the Labour Code and the other revising the Legislative Decree of 1974 regarding the organization of social security. The first draft text is currently under examination by the Transitional National Assembly and the second is under discussion by the Council of Ministers. The Committee notes this information. It trusts that the Government will not fail to take all the necessary measures for the adoption of the above draft texts to ensure that agricultural wage earners (including daily, temporary and casual workers) enjoy the protection guaranteed by this Convention, which was ratified by Rwanda over 35 years ago. The Committee requests the Government to indicate any progress achieved in this respect.

[The Government is asked to report in detail in 2002.]

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Angola, Guinea-Bissau, Morocco, Slovakia.*

Information supplied by *Estonia* in answer to a direct request has been noted by the Committee.

Convention No. 13: White Lead (Painting), 1921

Algeria (ratification: 1962)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which was on the following points:

The Committee notes that Executive Decree No. 96-209 of 5 June 1996 fixes the composition and functioning of the National Occupational Safety and Health Council. The responsibilities of the this Council include the production of an annual report on matters of occupational health and safety and occupational medicine. The Committee trusts that the Government will take advantage of the creation of this Council to promote the adoption of the regulations giving effect to the provisions of the Convention. In this regard, the Committee recalls that, in its comments since 1965, it has drawn the Government's attention to the fact that there are no specific provisions in force giving effect to the Convention. The Committee also recalls that, since the Government's report of 1989, in which it announced the adoption of Act No. 88.07 of 26 January 1988 on Occupational Health and Safety and Occupational Medicine, the Government had committed itself to adopting implementing texts with a view to giving effect to the provisions of this Convention, among others. In its last report, the Government recalled what it had already stated in 1995 with regard to the priority which it was giving to other fundamental texts owing to the necessities arising from the social and economic reforms introduced after 1989.

The Committee hopes that the necessary measures will be taken in the very near future to ensure application of *Article 1 of the Convention* (prohibition of the use of white lead and sulphate of lead in the internal painting of buildings), *Article 2* (regulation of the use of white lead in artistic painting), *Article 3* (prohibition of the employment of males under 18 years of age and of all females in any painting work involving the use of white lead) and *Article 5* (regulation of the use of white lead in painting work for which its use is not prohibited). As regards the establishment of statistics on the rate of morbidity and mortality due to lead poisoning, the Committee notes the Government's information to the effect that the National Social Insurance Scheme has been apprised of the question of statistics laid down in *Article 7* with a view to the implementation of this Article.

The Committee requests the Government to indicate any progress made in this area and to provide a copy of the relevant text as soon as it has been adopted.

* * *

In addition, a request regarding certain points is being addressed directly to *Latvia*.

Convention No. 14: Weekly Rest (Industry), 1921

Requests regarding certain points are being addressed directly to the following States: *Bahrain, Chile, Kyrgyzstan, Lithuania, Tajikistan, Viet Nam.*

Convention No. 16: Medical Examination of Young Persons (Sea), 1921

Requests regarding certain points are being addressed directly to the following States: *Albania, Barbados.*

Convention No. 17: Workmen's Compensation (Accidents), 1925

Angola (ratification: 1976)

In reply to the Committee's previous comments, the Government indicates in its report that the draft regulations respecting employment injury, envisaged under section 58 of Act No. 18/90 on the social insurance system, have not yet been approved. In this respect, the Government states that, in accordance with section 7 of Resolution No.

12/81, until the regulations are adopted, Title III of the Labour Act of 1957 (Decree No. 2827) and the relevant sections of the Rural Labour Code of 1962 (Decree No. 44309) remain in force, despite the fact that these two Decrees were repealed by section 169 of the General Labour Act of 1981. Moreover, the provisions of section 141 of the General Labour Act, under which enterprises are obliged to insure their employees against employment injury, also remain in force.

The Committee notes this information. It hopes that the Government's next report will contain more detailed information on the progress achieved in the adoption of the regulations respecting employment injury, envisaged under section 58 of Act No. 18/90 on the social insurance system. The Committee requests the Government to provide a copy of the above regulations as soon as they have been adopted. In this respect, the Committee reminds the Government that it may seek the technical assistance of the Office.

The Committee raises other points in a request addressed directly to the Government.

Antigua and Barbuda (ratification: 1983)

The Government indicates, in response to the Committee's earlier comments which it has been making for a number of years, that there has been no change in the existing legislation. The Committee, therefore, is bound once again to ask the Government to take the necessary steps to bring national legislation and practice into full conformity with the following Articles of the Convention.

Article 5 of the Convention. Section 8 of the Workmen's Compensation Ordinance No. 24 of 1956 should be completed so as to ensure that the compensation due in the event of accidents causing permanent incapacity shall be paid in the form of periodical payments to the injured workman or his dependants. However, the compensation may be paid wholly or partially in a lump sum, if the competent authority is given guarantees that it will be properly utilized.

Article 7. Section 9 of Ordinance No. 24 of 1956 does not provide for additional compensation in respect of the assistance of a third person except in cases of temporary incapacity, whereas the Convention provides in such cases for additional compensation to the victims of injuries who suffer from *temporary* or *permanent* incapacity.

Article 9. In accordance with section 6, paragraph 3, of Ordinance No. 24 of 1956, the employer is responsible for paying the "expenses and reasonable cost" of medical treatment up to a prescribed amount, whereas the Convention does not prescribe any limits in this respect. Furthermore, national legislation does not provide for surgical and pharmaceutical aid which contravenes this Article of the Convention. The Committee therefore requests the Government to take the necessary steps in order to ensure that full effect is given to this provision of the Convention.

Article 10. The Committee recalls that there is no provision under which the supply of surgical appliances is generally prescribed. It points out that section 10 of Ordinance No. 24 of 1956 provides for the supply of artificial limbs only when this is likely to improve *capacity for work*, whereas the Convention prescribes this in all cases when they are recognized to be necessary and not only in cases where they are necessary to improve capacity for work. The Committee therefore requests the

Government to take the necessary steps to bring national legislation into full conformity with this Article of the Convention.

Kenya (ratification: 1964)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> In response to the Committee's previous comments, the Government specifies that the Work Injury Benefits Insurance Scheme Bill has been amended and forwarded to the competent authorities for enactment. The Committee notes this information. It observes, however, that the Bill provided by the Government does not seem to have incorporated the new amendments. The Committee hopes that the Bill, to which the Government has referred since 1990, will be adopted soon and that it will enable full effect to be given to the provisions of the Convention, by taking into account the following specific points.
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> *Article 2, paragraph 2, of the Convention.* Further to the Committee's comments, the Government refers to section 22(1) of the Bill which provides for the maintenance of protection in respect of workmen's compensation for accident where a worker is temporarily employed abroad. While noting this information, the Committee recalls that its comments related to section 22(2) of the Bill which, contrary to this provision of the Convention, excluded from compensation for accidents workers ordinarily employed abroad but temporarily employed in Kenya by an employer who carries on business chiefly outside Kenya, subject to international agreements.
>
> *Article 5.* (a) The Government specifies that the final Bill has been amended to bring section 48 into line with section 56. Consequently, the Committee hopes that in its final version section 48 will provide for the payment of the compensation in a lump sum only for victims whose degree of incapacity does not exceed 20 per cent and for whom the competent authority is satisfied that the lump sum paid will be properly utilized. (b) In addition, the Committee recalls that it would be desirable to replace, in sections 4(1)(b) and 50(1) of the Bill, the term "accident" by the term "death", so as to take account of the situations in which the death of an injured workman occurs well after the accident has taken place.
>
> *Article 7.* In response to the Committee's comments, the Government indicates that, although the additional compensation paid in case of incapacity requiring the constant help of another person which is provided for in section 57 of the Bill may be limited to a particular period, the insurance scheme director may extend this compensation depending on the injured worker's condition. The Committee recalls that the additional compensation must be paid for as long as the injured worker's state of health so requires. Consequently, the Committee hopes that, in practice, at the end of each period for which the additional compensation has been granted, the competent authority will ensure that an injured worker whose state of health so requires continues to receive the additional compensation for a further period.
>
> *Articles 9 and 10.* (a) The Committee recalls that section 9(2) of the Bill, which sets a ceiling for the reimbursement of expenses relating, in particular, to medical, surgical, pharmaceutical and hospital treatment, and to the supply and renewal of artificial limbs and surgical appliances, does not comply with this provision of the Convention which guarantees injured workers the right to such medical aid as is recognized to be necessary in consequence of their accidents.
>
> (b) In addition, the medical aid must be granted irrespective of the duration of the injured worker's incapacity for work and from the day on which the accident occurs. Consequently, in the definition of "accident", given in section 2 of the Bill, the phrase "for more than three consecutive days, excluding the day of the accident and any Sunday, or if

Sunday is not a rest day, one rest day" should be deleted. This is all the more necessary, since section 36(2) of the Bill already provides for a waiting period of three days for the payment of cash benefits, where the duration of the incapacity does not exceed three weeks.

The Committee trusts that, in its final version, the Bill will take account of the comments made above and that the Government's next report will provide details of its enactment.

Mauritius (ratification: 1964)

For many years, the Committee has noted that the Workmen's Compensation Act (Chapter 220), which covers certain categories of workers excluded from the application of the National Pensions Act, 1976, does not contain provisions giving effect to *Articles 5, 7, 9, 10 and 11 of the Convention*. In this connection, the Government indicates in its report that the merger is being envisaged of the Workmen's Compensation Act and the National Pensions Act, to ensure full application of the Convention, inter alia. The Committee notes this information. It trusts that the Government will take all necessary measures in the very near future to carry out the legislative amendments required in order to ensure that all workers covered by the Convention receive the guarantees that this instrument provides in case of occupational accidents.

[The Government is requested to report in detail in 2001.]

Mozambique (ratification: 1977)

The Committee notes the adoption of Labour Act No. 8/98 of 20 July 1998. The Committee refers to its previous comments and notes with satisfaction that, in accordance with *Article 7 of the Convention*, section 162(2) of the new Act guarantees an additional benefit to workmen injured in such a way as to require the constant help of another person.

Moreover, a request regarding certain points is being addressed directly to the Government.

Myanmar (ratification: 1956)

1. With reference to the Committee's earlier comments, the Government indicates in its report that the Labour Laws Reviewing Committee of the Ministry of Labour has proposed a new draft of the Workmen's Compensation Act of 1923, in force at present, so as to adapt it to current circumstances. A draft Act has thus been submitted to the Laws Scrutiny Central Body for views and comment. New measures would be taken once the draft Act is returned to the Ministry of Labour together with the comments in question. In addition, the Government indicates that the process of revision of labour legislation must be distinguished from the processes undertaken in 1962 and 1988 during the socialist era. While noting all this information, the Committee is obliged to remind the Government that since the entry into force of this Convention in Myanmar, that is for over 40 years, it has been drawing its attention to the need to bring the legislation (the Workmen's Compensation Act, 1923, and the Social Security Act, 1954) into conformity with the provisions of the Convention. Under these circumstances, the Committee trusts that the draft Act on Workmen's Compensation will be adopted very shortly so as to ensure full application of the Convention, and in particular:

(a) in conformity with *Article 5 of the Convention*, that the compensation payable where permanent incapacity or death results from the injury, shall be paid to the victim or his dependants in the form of periodical payments; provided that it may be wholly or partially in a lump sum, if the competent authority is satisfied that it will be properly utilized;

(b) in conformity with *Article 10*, that no maximum amount shall be imposed for the supply and normal renewal of such artificial limbs and surgical appliances as are recognized to be necessary;

(c) in conformity with *Article 11*, that measures shall be taken for ensuring in all circumstances, in the event of the insolvency of the employer or insurer, the payment of compensation to workmen who suffer personal injury due to industrial accidents or, in case of death, to their dependants.

2. The Committee also notes the statistical information communicated by the Government on the amount of benefits provided and the number of employees protected under the provisions of the Workmen's Compensation Act and the Social Security Act. It requests the Government to provide such information in relation to the total number of employees working in industrial and commercial undertakings.

[The Government is asked to report in detail in 2001.]

New Zealand (ratification: 1938)

With reference to its previous comments, the Committee notes the information provided by the Government in its report. It also notes the new observations made by the New Zealand Council of Trade Unions (NZCTU) and the New Zealand Employers' Federation (NZEF), and the Government's response to these observations.

The Committee notes that the Accident Rehabilitation and Compensation Insurance (ARCI) Act of 1992, which was the subject of its previous comments, has been repealed by the Accident Insurance Act, 1998, No. 114, which came into force on 1 July 1999. In these conditions, it requests the Government to provide in its next report detailed information on the consequences of this legislation on the application of each of the Articles of the Convention. The Committee also requests the Government to provide a copy of the above Act and its regulations, and particularly the Accident Insurance (Insurer's Liability to Pay Cost of Treatment) Regulations, 1999, which is the subject of the NZCTU's observations. In the meantime, the Committee continues to draw the Government's attention to the following points.

Article 9 of the Convention. The Government states in its report that regulations made under the Accident Insurance Act, which came into force on 1 July 1999, set out the minimum amounts that insurance companies must pay for the medical treatment of the victims of employment injuries. The difference between the actual cost of the treatment and the amount prescribed in the regulations has to be paid by the injured worker. Where a minimum amount is not established in the regulations for a particular treatment, the insurer must pay the cost of the treatment in full. The Government also indicates that urgent treatment provided by public hospitals continues to be provided without any cost to the injured worker. However, hospitals cannot always provide all urgent treatment and injured workers may have to seek other providers of treatment and therefore contribute themselves to the cost of the treatment provided. With regard to non-urgent treatment, the Government confirms that the insurance company has to provide such treatment without any cost to the injured worker. However, the worker may elect to receive treatment from another provider by paying the difference between the actual cost of treatment and the amount set out in the regulations. Finally, with the exception of non-acute surgery, the worker has to pay the difference in cost for other non-acute treatment, such as physiotherapy.

The NZCTU expresses concerns at the adoption of the Accident Insurance (Insurer's Liability to Pay Cost of Treatment) Regulations, which once again limit the amounts that insurance companies are liable to reimburse in respect of treatment. These regulations are inconsistent with the Act of 1992 and contradict Clauses 1 and 2 of Schedule 1 to the Act. The trade union considers that the adoption of these regulations deliberately detracts from the international obligations deriving in particular from *Article 9* of the Convention and has submitted a complaint to the Regulations Review Committee of Parliament in relation to both the form and the substance of the regulations.

The Committee notes all of this information. It recalls that, under *Article 9* of the Convention, the cost of medical aid and such surgical and pharmaceutical aid as is recognized to be necessary for an injured worker in consequence of accidents shall be defrayed either by the employer, or by accident insurance institutions, or by sickness or invalidity insurance institutions. In this respect, the Committee notes that the urgent treatment which cannot be provided by public hospitals is always subject to cost-sharing by the injured workers. It once again requests the Government to indicate the extent to which and the circumstances in which workers who are injured in employment accidents have to have recourse to providers of health care other than public hospitals for urgent treatment. Furthermore, while noting with interest that the insurance companies have to provide all the non-urgent treatment required by the injury without expense to the worker, certain non-urgent treatment qualified as *non-elective* is subject to cost-sharing by the worker. In these conditions, the Committee requests the Government: (a) to indicate the nature of the non-urgent *non-elective* treatment for which injured workers have to pay part of the cost; (b) to provide detailed information on the Accident Insurance (Insurer's Liability to Pay Cost of Treatment) Regulations, in their revised version as appropriate, and particularly on the implications of these regulations on cost-sharing by injured workers in both urgent and non-urgent treatment; and (c) to provide information on the outcome of the complaint submitted by the NZCTU to the Regulations Review Committee of Parliament. The Committee of Experts trusts that the Government will be able to indicate in its next report that measures have been taken or are envisaged to ensure a better application of this provision of the Convention.

Article 10. In reply to its previous comments, the Committee notes with interest the information provided by the Government to the effect that, under the Accident Insurance Act which came into force on 1 July 1999, insurers cover the full cost of artificial limbs and surgical appliances. Injured workers are no longer required to contribute to the cost of these items. The Committee requests the Government to indicate the provisions under which artificial limbs and surgical appliances are supplied and renewed at the sole cost of the insurer.

[The Government is asked to report in detail in 2001.]

Rwanda (ratification: 1962)

Article 2 of the Convention. The Committee notes the information provided by the Government in its report. It notes with regret that the Order to determine the means of applying the Legislative Decree of 22 August 1974, respecting the organization of the social security system to apprentices and to casual and temporary workers has still not been adopted. It also notes that reference is no longer made to the draft Ministerial Order mentioned in the Government's previous reports. The Committee recalls that it has been drawing the Government's attention for over 20 years to the need to extend the laws and regulations respecting the compensation of industrial accidents to apprentices and to casual and temporary workers, in accordance with *Article 2* of the Convention. In these conditions, it trusts that the Government will not fail to take all the necessary measures for the adoption of the above Order, so as to give full effect to this provision of the Convention.

Saint Lucia (ratification: 1980)

The Committee notes with regret that once again the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> *Article 7 of the Convention.* The Committee notes that Regulations No. 37 of 1984 do not, as set out in this provision of the Convention, provide for the provision of additional compensation to victims of accidents who suffer incapacity and require the constant help of another person. The Committee therefore hopes that the Government will take the necessary steps to give effect to this provision of the Convention.
>
> *Articles 9 and 10.* In its previous comments, the Committee drew the Government's attention to the fact that, contrary to this provision of the Convention, section 52(1) of the National Insurance Act No. 10 of 1978 limits to a prescribed amount the right to medical assistance and the provision of artificial limbs. In view of the fact that the Regulations issued under the Act do not appear to contain provisions in this connection, the Committee hopes that the Government will take the necessary steps to secure the application of these Articles of the Convention, which do not fix any maximum amount as regards such benefits.
>
> The Committee also requests the Government to indicate whether the medical treatment set out under section 52(1) of Act No. 10 of 1978 also covers pharmaceutical assistance and the supply, repair and renewal of artificial limbs, in accordance with these provisions of the Convention.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Sierra Leone (ratification: 1961)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> *Article 5 of the Convention.* For many years the Committee has been drawing the Government's attention to the fact that sections 6, 7 and 8 of the Workmen's Compensation Ordinance 1954, as amended in 1969, provide for periodic payments for injury benefit, which, although equivalent to the full amount of wages received prior to the accident, are paid only for a limited number of months, whereas under *Article 5* of the Convention, payment shall be made throughout the contingency.

> The Government states in its report that the final draft of the New Labour Legislation, which will provide for periodic payment of benefit in cases of work injury throughout the period of disability, is expected to be completed shortly. The Committee notes this information. It hopes that the process of enactment will be completed soon, and that the Government will supply a copy of the legislation once it is enacted.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

United Republic of Tanzania (ratification: 1962)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> 1. *Article 5 of the Convention.* In previous observations, the Committee had noted that Chapter 263 of the Workmen's Compensation Ordinance made provision for payment in the form of a lump sum in the event of death or permanent incapacity, whereas *Article 5* requires that compensation be paid in the form of periodic payment. Under this Article of the Convention, lump sums may be paid only with adequate supervision from the appropriate authorities. In reply to these observations, the Government had expressed its intent, since 1988, to adopt "Consolidated Social Security Legislation". In its last report, the Government explains that the matter is still being followed up by the National Provident Fund and experts from the International Social Security Association, in collaboration with the International Labour Office.
>
> The Committee notes this information. It again urges the Government to take all necessary measures to give full effect to the requirements of the Convention in the very near future.
>
> 2. The Committee requests information on the application of the Convention, including any relevant statistics, in accordance with *Part V of the report form.*

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Uganda (ratification: 1963)

Article 5 of the Convention. The Committee notes the information provided by the Government in its last report that the Bill to revise the legislation on workers' compensation has received its first reading in Parliament. It trusts that the Government will take all the necessary measures for the adoption of this Bill so as to give full effect to *Article 5* of the Convention, on which the Committee has been commenting since 1966. The Committee recalls that, under this provision of the Convention, the compensation payable in the event of accidents which result in permanent incapacity or death shall be paid in the form of periodical payments throughout the contingency, although these payments may be paid in the form of a lump sum if the competent authority is satisfied that it will be properly utilized. It requests the Government to provide a copy of the new Act as soon as it has been adopted.

[The Government is asked to report in detail in 2001.]

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In addition, requests regarding certain points are being addressed directly to the following States: *Angola, Bahamas, Burkina Faso, Cape Verde, Central African*

Republic, Comoros, Guinea-Bissau, Mexico, Mozambique, New Zealand, Nicaragua, Portugal, Sao Tome and Principe, Slovakia, United Republic of Tanzania, Zambia.

Convention No. 18: Workmen's Compensation (Occupational Diseases), 1925

Angola (ratification: 1976)

With reference to the Committee's previous comments, the Government states that the regulations respecting compensation for employment injury, envisaged under section 58 of Act No. 18/90 on the social insurance system, have not yet been adopted, but have been submitted to the Council of Ministers for this purpose. The Government confirms that until the above regulations are adopted the following legislation remains in force: section 141 of the General Labour Act, under which enterprises are required to insure their employees against employment injury; Title III of the Labour Code of 1957 (Decree No. 2827) and Chapter V of Title VII of the Rural Labour Code of 1962 (Decree No. 44309), despite the fact that these two Decrees were repealed by section 169 of the General Labour Act of 1981.

The Committee notes this information. In this respect, it reminds the Government that the schedules of occupational diseases contained in the 1957 Labour Code and the 1962 Rural Labour Code had been the subject of comments by the Committee in 1980, since certain activities liable to cause poisoning by lead, its alloys or compounds and by mercury, its amalgams and compounds were not mentioned. In these conditions, the Committee hopes that the Government will be able to take all the necessary measures to adopt in the near future the regulations respecting compensation for employment injury, envisaged under section 58 of Act No. 18/90. It also hopes that these regulations, in accordance with *Article 1 of the Convention*, will ensure that compensation is payable to the victims of occupational diseases and their dependents, in accordance with the general principles of the compensation of employment injury, and that they will include a schedule of occupational diseases which contains all the diseases and toxic substances and the corresponding industries and processes set out in the schedule annexed to *Article 2* of the Convention. The Committee requests the Government to provide detailed information on the progress achieved in this respect and to provide copies of the above regulations as soon as they have been adopted.

Egypt (ratification: 1960)

The Committee notes the adoption of Decision No. 56 of 1994, taken by the Minister of Social Security, amending the schedule of occupational diseases appended to Act No. 79 of 1975. In this context, it notes with satisfaction that the new wording of item No. 21 of the schedule, on anthrax infection, includes among the occupations or factors at the origin of the disease, the loading or *transport* of goods containing materials of animal origin or animal waste or *goods that may have been contaminated by some kind of disease by animals or animal waste.*

Guinea-Bissau (ratification: 1977)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee notes that the Government's report does not indicate any progress in the adoption of a list of occupational diseases. The Committee cannot emphasize enough the importance of adopting a list which includes at least those diseases specified in the Schedule to *Article 2 of the Convention*. It is bound once again to insist that the Government take the necessary steps in the very near future to give full effect to the provisions of the Convention.

Sao Tome and Principe (ratification: 1982)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> With reference to its previous comments, the Committee notes that no progress has been made to supplement existing legislation in order to include a detailed list of occupational diseases and related work, in accordance with *Article 2 of the Convention*. The Government states in its report, furthermore, that the Social Security Institute is awaiting publication by the Ministry of Health of lists of occupational diseases in order to allocate compensation. In these circumstances and in view of the importance of the matter, the Committee can only stress once again to the Government that the necessary measures should be taken in the very near future to adopt a list of occupational diseases including at least those set forth in the Schedule appended to *Article 2* of the Convention – diseases which shall be recognized as such in the event that they are contracted in the circumstances set out in the Schedule.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Mozambique, Pakistan, Portugal.*

Convention No. 19: Equality of Treatment (Accident Compensation), 1925

Central African Republic (ratification: 1964)

The Government indicates in its report received in 1998 that no new provisions which could affect the application of the Convention have been adopted. It therefore refers to the report sent in 1997. Under these circumstances, the Committee must once again draw the Government's attention to its previous observation, which read as follows.

With reference to the comments which it has made for many years, the Committee has noted the information provided by the Government according to which the Employment Department envisages making the necessary amendments to bring its legislation into conformity with the Convention as part of the overall programme to review legislative and regulatory texts on labour-related matters. The Committee is obliged once again to remind the Government of the need to supplement section 28 of

Act No. 65-66 of 24 June 1965 on workmen's compensation for accidents so as to guarantee for the dependents (survivors) of a worker who was a national of a State bound by the Convention, who were not resident in the Central African Republic at the time the victim died and continue not to be resident there, the benefit accruing from the survivors' pension paid under this legislation. The Committee trusts that the amendments will be adopted in the very near future and it wishes to remind the Government of the possibility of seeking technical assistance from the ILO.

[The Government is asked to report in detail in 2000.]

Iraq (ratification: 1940)

The Committee notes with regret that in its report received on 27 November 1998 the Government merely reproduces the information it sent in its reports of 1994 and 1997. Consequently, the Committee cannot but repeat its previous observation, which read as follows:

> In reply to its previous comments the Government refers mainly to certain provisions of the Workers' Pension and Social Security Law, No. 39 of 1971, without supplying the detailed information on the points raised by the Committee, which dealt in particular with the follow-up of the conclusions and recommendations, approved by the Governing Body at its 250th (May-June 1991) Session, of the Committee set up to consider the representation made by the Federation of Egyptian Trade Unions under article 24 of the ILO Constitution alleging non-observance by Iraq of a number of Conventions. In this situation the Committee hopes that the Government will not fail to supply a report for examination at its next session which will contain detailed information on the following points:
>
> 1.(a) The Government is requested to indicate any other provisions (apart from Decision No. 603 of 1987) or contractual conditions which may affect the right of foreign workers engaged in state enterprises, such as arms factories, to receive compensation for industrial accidents both in Iraq and in the country of their new residence.
>
> (b) As regards the situation of temporary workers, to whom Decision No. 603 applies, please indicate which provisions of the legislation ensure the right of such workers to receive compensation in the case of industrial accidents, particularly in cases where they terminate their service before the expiration of the fixed period of employment or the completion of the work for which they were engaged (see also under point 2 below).
>
> 2.(a) In its previous comments, the Committee observed that under section 38(b)(ii) of Law No. 39 of 1971, which provides for the payment of compensation abroad to an Arab citizen if he has "returned to *his* country at the *end* of his insured period of service", Arab workers who leave Iraq *before* their contract period has expired or who settle in a country *other* than their country of origin, may be refused payment of compensation due to them. On the other hand, under the same provisions no such restrictions are applied in respect of Iraqi workers. The Committee recalls in this respect that in its previous report the Government stated that Instruction No. 2 of 1978 regarding payment of social security pensions to insured persons leaving Iraq was being studied by the Government with a view to its revision. The Committee, therefore, once again expresses the hope that the Government will not fail to indicate the legislative measures taken or contemplated to ensure equality of treatment between nationals of Iraq and Arab workers in respect of compensation for industrial accidents, particularly in the case of their residence abroad, including the modifications to Instruction No. 2 of 1978. Please supply a copy of the text of such legislative measures, when adopted.
>
> (b) As regards nationals of States bound by the Convention other than Arab countries, the Committee recalls that under section 38(b)(iii) of Law No. 39 of 1971, no payment of

benefits is made outside Iraq except under reciprocity agreements or international labour Conventions and subject to the necessary authorization under Instruction No. 2 of 1978. Please indicate measures taken or contemplated at the level of the Iraqi Institute of Social Security to ensure, without any restrictions, that in all cases compensation benefits are paid to all workers who are nationals of a country bound by the Convention, in their new country of residence.

3. The Committee notes, from the information supplied by the Government representative in the discussion in the Conference Committee in 1994 on the application of Convention No. 118 by Iraq, that the Government intends to pay benefits due to foreign workers, including Egyptian workers, who left Iraq in 1990, once the economic embargo imposed on Iraq is lifted, and after the release of Iraq's frozen assets in foreign banks and the improvement of the national economic situation. The Committee would like the Government to continue to provide information on any measures taken or contemplated with a view to resuming payment of compensation for industrial accidents to beneficiaries residing abroad, accompanied by the relevant statistical data. Please also indicate whether workers who left Iraq at the time of the war and who had no opportunity to present their requests for payment of the compensation due to them, may do so from their new place of residence abroad and, if so, in what way.

[The Government is asked to report in detail in 2000.]

Syrian Arab Republic (ratification: 1960)

Article 1, paragraph 2, of the Convention. The Committee refers to its observation concerning Convention No. 118, Article 5.

[The Government is asked to report in detail in 2000.]

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Djibouti, Estonia, Guinea-Bissau, Lithuania, Nigeria, Saint Lucia, Trinidad and Tobago, Yemen.*

Convention No. 22: Seamen's Articles of Agreement, 1926

Liberia (ratification: 1977)

The Committee notes the Government's statement in its report that the Committee's comments have been referred to the Bureau of Maritime Affairs with instructions that the commission should review the provisions of the maritime laws and regulations with the aim of having them conform with the provisions of the Convention. The Committee hopes that the necessary measures will be taken to apply the Convention in law and in practice and that the Government will provide full particulars on any progress achieved, taking into consideration the Committee's comments since 1995 on *Article 3, paragraph 4, Article 9, paragraph 2, Article 13 and Article 14, paragraph 2, of the Convention.*

Venezuela (ratification: 1944)

The Committee notes that in spite of the comments it has been making for several years and the information supplied previously by the Government that the Regulations on Navigation at Sea and on Inland Waterways of 1992, adopted under the Labour Act of 1990, was being revised to bring it into conformity with the Convention, the legislation does not yet contain provisions giving effect to the Convention regarding *Article 3; Article 6, paragraph 3; Article 8; Article 9, paragraph 1; Article 13, paragraph 1; and Article 14, paragraph 2*. The Committee recalls, on this subject, that for many years it has commented on similar provisions in the national legislation, and that the Government has indicated since 1978 that the Committee responsible for drafting regulations governing work on board national merchant shipping vessels was going to take the provisions of the Convention into consideration. The Committee, therefore, urges the Government to take the necessary measures as soon as possible to give effect in national law to these provisions of the Convention, taking into consideration, in this regard, the comments the Committee is also making in a direct request.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Poland, Venezuela.*

Convention No. 23: Repatriation of Seamen, 1926

A request regarding certain points is being addressed directly to *Portugal.*

Convention No. 24: Sickness Insurance (Industry), 1927

Requests regarding certain points are being addressed directly to the following States: *Hungary, Nicaragua.*

Convention No. 25: Sickness Insurance (Agriculture), 1927

A request regarding certain points is being addressed directly to *Nicaragua.*

Convention No. 26: Minimum Wage-Fixing Machinery, 1928

Angola (ratification: 1976)

The Committee takes note of the succinct information provided by the Government in its report.

Article 3, paragraph 2(2), of the Convention. Further to its previous comments, the Committee notes that the Government reiterates that salaries are fixed by an administrative procedure, which seems to imply that there is no minimum wage fixed on the basis of consultations with social partners. The Committee recalls that in the observation of 1998 it mentioned that, since 1989, the national system of fixing minimum wages is inadequate, particularly in practice, which prevents the national system of fixing minimum wages from conforming with the provisions of the Convention. Thus, the Committee has requested the Government to take the necessary measures to ensure the participation, in equal number and on equal terms, of employers' and workers' representatives in the system of fixing minimum wages.

Article 3, paragraph 2(3), and Article 4. The Committee also notes with regret that no response is supplied by the Government in its report to its comments requesting a copy of the most recent Decree fixing the minimum wage, and information on the relevant legislative provisions or regulations which ensure the observance of the minimum wage, such as: the possibility of recovering, by judicial or legal proceedings, the amount by which the workers have been underpaid in the event that the wage rate received is less than the minimum wage, as well as the sanctions provided for in the eventual infringement of the provisions concerning the minimum wage.

The Committee cannot but hope once more that the Government will provide information on the measures taken to ensure that national legislation and practice are consistent with its commitments made by ratifying the Convention.

[The Government is asked to report in detail in 2000.]

Argentina (ratification: 1950)

With reference to its previous comments, the Committee notes with satisfaction the information provided by the Government in its report on the adoption of collective agreement No. 307/99, dated 27 October 1998, for crew members and auxiliary factory workers employed on board fishing and deep freezing vessels as a result of the collective bargaining between the representatives of the Union of United Maritime Workers (SOMU) and the Chamber of Shipowners of Fishing and Deep Freezing Vessels of Argentina. The Committee notes that in Appendix I to the above agreement the basic wages are determined for the various categories of workers covered by the agreement.

India (ratification: 1955)

1. In its previous comments, the Committee referred to the observations made by the Mahabubnagar District Contract Labour Union concerning the non-payment of minimum wages to the migrant labourers of the Mahabubnagar District. The Committee notes the reply supplied by the Government according to which a claim application was filed on 15 May 1997 under the Payment of Wages Act, 1936. The Committee requests the Government to provide information on the outcome of this claim.

2. The Committee takes note of the observations made by the Gujarat Mazdoor Panchayat concerning the non-payment of wages fixed under the Minimum Wages Act, 1948, and the Gujarat Minimum Wages Rules, 1961, to workers of the Mig-Weld & Machines Limited. The Committee notes the reply of the Government and, in particular, the information given by the Labour and Employment Department of the Government of Gujarat. According to this information, as a result of an inspection carried out by an inspector of this body in the above factory as regards the payment of wages, the employer has been requested to comply with the legal provisions on minimum wages. The Committee also notes that, since the employer failed to comply with such a request, the Labour and Employment Department has filed a criminal complaint against the Managing Director of the company. As the complainant union has been subsequently informed, it has also filed a recovery application for the balance of minimum wages. The Committee requests the Government to continue to provide information on the outcome of these legal actions.

3. In addition, the Committee recalls that, in its previous comments in both, its direct requests and its observation of 1997, it also referred to various infringements of the minimum wage regulations in the country, and therefore it requests the Government to supply information on the following issues:

- petition filed by the Bijli Mazdoor Panchayat before the High Court of Gujarat for the implementation of different labour laws in the State of Gujarat, including the Minimum Wages Act, as regards the situation of 4,000 scheduled tribe workers of the low caste called "Adivasis";
- actions taken by the Labour Commissioner to include in the scheduled employment the activity of the workers who are working outside the Thermal Power Station premises (the "Ash Area") to separate burnt coal from the flowing water;
- actions taken by the State Minimum Wages Advisory Board as concerns the revision of minimum wages for workers employed in local authorities, including part-time workers, and a copy of text on minimum wages, as referred to in the Tamil Nadu AITUC's communication therein referred to;
- measures taken or contemplated to ensure the payment of minimum wages to wage-earners working in the unorganized sector and the homeworkers;
- comments on the specific issues raised in the observation made by the Centre of Indian Trade Unions (CITU);
- comments on the matter raised by the United Trade Union Centre (UTUC) on the existence of employers' legal actions to withhold the benefit of the minimum wages to the concerned workers;
- texts of decisions of courts of law involving questions of principle relating to the application of the Convention in accordance with *Part IV of the report form*;
- association in equal numbers and on equal terms of the employers and workers concerned in the operation of the advisory board the Government referred to in relation to the comments made by the All India Organization of Employers (AIOE);
- the present situation of the workers employed in the stockyards run by the Steel Authority of India Limited (SAIL) as regards minimum wages.

4. The Committee would be grateful if the Government could also supply further details on the amendment of the Minimum Wages Act, 1948, since in its previous report it informed that proposals were at advanced stage of consideration, and that consultations with central ministries and state governments were completed.

Morocco (ratification: 1958)

The Committee notes the information communicated in the Government's latest reports in reply to its previous observation.

Article 3, paragraph 2(1) and (2), of the Convention. The Committee notes the information supplied by the Government to the effect that the creation, organization and composition of the National Committee on Social Dialogue are not enshrined in any legislative or regulatory text and that the National Committee is governed by the principles set forth in the common agreement establishing it. The Committee notes with regret, however, that the Government has not supplied it with a copy of the text of the agreement, as requested in earlier observations. The Committee again requests the Government urgently to supply this text with its next report and to provide information on the working of the National Committee on Social Dialogue indicating, for example, the periodicity of its meetings or supplying extracts from their minutes.

The Committee is raising other points in a direct request to the Government.

Myanmar (ratification: 1954)

The Committee notes that the Government's report contains no reply on some of the matters raised in its previous observation. The Committee recalls the sections concerning the payment of wages in the report of the Commission of Inquiry appointed under article 26 of the Constitution of the ILO to examine the observance by Myanmar of the Forced Labour Convention, 1930 (No. 29).

Article 1, paragraph 1, of the Convention, in conjunction with Article 4. The Committee has noted from the previous report of the Government that the extension of the coverage relating to minimum wage fixing will be delayed for a while awaiting the enactment of the new labour law. It has also observed that, according to the report of the above Commission of Inquiry (paragraphs 473 to 475 and paragraph 512), local people in irrigation projects are denied remuneration and compensation, and are paid only in exceptional circumstances and then below market rates. The Committee again urges the Government to indicate the manner in which a minimum wage rate is applicable to local people in irrigation projects; also to state, in accordance with *Article 4* of the Convention, the measures taken or contemplated, including supervision, inspection and sanctions, so as to ensure: (i) that the employers and workers concerned are informed of these rates in cases where they are applicable; and (ii) that a worker to whom the minimum rates are applicable and who has been paid at less than these rates shall be entitled to recover, by appropriate legal means, the amount by which he or she has been underpaid.

Article 1, paragraph 2, in conjunction with Article 3. The Committee requests the Government once more to inform it to what extent the employers' and workers' organizations are involved in the fixing, revision and extension of the minimum wage. It also asks the Government to provide a copy of the new labour law as soon as it is adopted.

Part V of the report form. The Committee requests the Government to communicate extracts from the reports of the inspection services and on any other relevant data of the application of the Convention in practice.

[The Government is asked to report in detail in 2000.]

Rwanda (ratification: 1962)

Article 3 of the Convention. The Committee notes the indication by the Government that on adoption of the draft Labour Code, presently under way, to which the Government has been referring since 1979, the minimum wage rates currently in force will be reviewed, this time taking account of the presence of workers' organizations. The Committee can only reiterate the hope that the Labour Code will soon be adopted and that employers' and workers' organizations will participate in equal number and on equal terms in the application of methods of fixing and revising minimum wages.

Article 4, paragraph 1. The Committee notes the information in the Government's report that the national legislation does not provide for sanctions in cases of non-respect of minimum wage rates. The Committee reminds the Government that under this provision of the Convention, any Member who ratifies it must take the necessary measures by means of a system of sanctions to ensure that actual wages paid do not fall below the applicable minimum rate. The Committee again trusts that the Government will make every effort to take measures in the very near future in order to give full application to this provision of the Convention.

Turkey (ratification: 1975)

The Committee notes the information provided by the Government in its report, as well as the comments made by the Confederation of Turkish Trade Unions (TÜRK-IŞ) and the Turkish Confederation of Employer Associations (TISK).

1. The Committee notes that the report of the Government was only received in March 1999, thus after the Committee's session in 1998. The Committee takes note of the indication provided by the Government in this report according to which although the term "home work" is not defined and thus not specifically regulated in the Labour Act, it is assumed that there exists a contract of employment between an employer and an employee working at home and engaged in manufacture and commerce that falls under the scope of the Labour Act and the Regulation on Minimum Wage. The Government also states that the Ministry of Labour and Social Security is empowered in section 6, paragraph (III), of the said Act to decide which works other than those enumerated in the same section are to be classified as industrial or commercial. The Committee therefore trusts that the next report of the Government will state that the legislation has been amended to specifically include "home work" within the works enumerated in the section of the Labour Act referred to.

2. The Committee also notes the information provided by the Government that there are difficulties in supervising home work, that work is recently initiated on home work with a view to determine its practical dimensions and that social partners have been contacted for this purpose. The Committee trusts that the Government will make every effort to ensure in the very near future that the employers and workers concerned are informed of the minimum rates of wages in force, and that wages are not paid at less than these rates in cases where they are applicable *(Article 4 of the Convention)*. Thus, the Committee hopes that the Government will be in a position to supply information with its next report on the organization and working of inspection in relation to home workers *(Part III of the report form)*.

3. The Committee also notes the information supplied by the Government according to which:

- since 1987 minimum wages are fixed in shorter spans than the two-year term provided by section 33 of the Labour Act No. 1475; from 1 January 1999, minimum wages are fixed on calendar year basis with six-monthly increases;
- in 1995-96 the Minimum Wage Board concluded that it would be desirable to establish a tripartite commission to study the methods and principles to be applied

for fixing the minimum wages, and the adaptation of the relevant regulation in the light of the results of the studies of this commission;

- programmes for 1996 and 1997 foresaw the identification of methods to be applied for fixing the minimum wages and the problems in the existing structures, as well as their remedies, requiring preparations for new arrangements;
- since 1998 several meetings with the participation of social partners have been held within the context of the studies to modify the regulations for fixing the minimum wages and to consider the required amendments together with the proposals of the TISK.

The Committee recalls that the TISK referred to this issue in the comments received in 1998, the content of which was summarized in the Committee's previous observation. The Committee notes that the comments of the TISK attached to the Government's latest report, reiterate in substance the content of the previous one. The Committee requests the Government to report on any progress achieved in relation to the above meetings and on the follow-up of the comments of the TISK.

4. The TÜRK-IŞ states that the home working system is the most common form of evasion of the protective labour legislation. In this respect the TÜRK-IŞ reiterates that the scope of the Turkish minimum wage legislation should be extended to encompass the above categories of "homeworking trades". The TÜRK-IŞ also refers to the application of *Article 4* of the Convention and states that the supervisory system is not working properly because the number of inspectors is insufficient to control the increasing number of small workplaces and clandestine employment, without effective action of the Government in order to strengthen the supervisory mechanism.

The Committee requests the Government to communicate its observations on the comments made by the TÜRK-IŞ.

[The Government is asked to report in detail in 2000.]

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Argentina, Bahamas, Comoros, Czech Republic, Democratic Republic of the Congo, Djibouti, Dominica, Grenada, Guinea-Bissau, Madagascar, Mali, Morocco, Nigeria, Senegal, Sierra Leone.*

Convention No. 27: Marking of Weight (Packages Transported by Vessels), 1929

Angola (ratification: 1976)

The Committee notes that the Government's report does not contain a reply to its previous comments. It therefore recalls that, for a number of years, it has been drawing the Government's attention to the absence from national laws of provisions giving effect to *Article 1, paragraph 1, of the Convention,* **under the terms of which any package or object of 1,000 kg or more gross weight consigned for transport by sea or inland waterway shall have its gross weight plainly and durably marked upon it on the outside before it is loaded on a ship or vessel.**

For over ten years, the Government has been indicating that measures would be taken to give effect to this Article of the Convention and that a draft legislative text was under examination for this purpose. The Committee hopes that the Government will make every effort to ensure that the text in question is adopted in the very near future and that it will also give effect to *paragraph 4* of *Article 1*, by indicating who is under the obligation to have the weight marked.

[The Government is asked to report in detail in 2001.]

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Azerbaijan, Bangladesh, China, Honduras, Hungary, Indonesia, Pakistan, Viet Nam.*

Convention No. 29: Forced Labour, 1930

Algeria (ratification: 1962)

The Committee notes the Government's report.

1. *Civic service.* Since 1986 this Committee has drawn the Government's attention to the incompatibility with the Convention of sections 32, 33, 34 and 38 of Act No. 84-10 of 11 February 1984, as amended in 1986, which requires persons who have completed a course of higher education or training, to perform a period of civic service of between two and four years in order to obtain employment or exercise an occupation.

On this subject, the Government states in its latest report that civic service is a statutory period of work performed by persons under the authority of a public administration, body or enterprise in local communities. It represents the contribution of these persons to the economic, social and cultural development of the country. According to the Government, persons covered by civic service have the same rights and obligations as the workers governed by the legislation with regard to the general conditions of service of workers, including the right to receive remuneration at the expense of the employing body in accordance with the law. Furthermore, the years of civic service performed are taken into account for purposes of seniority, promotion and retirement, as well as in the contract period during which the person concerned is bound to a public body by a training contract. Finally, with regard to the incompatibility noted by the Committee, the Government recalls that persons covered by civic service carry out this service exclusively in the specialized branch or discipline in which they have been trained.

The Committee takes due note of these explanations. However, it also points out that under sections 32 and 38 of the Act, refusal to perform civic service and the resignation of the person concerned without acceptable grounds results in their prohibition from exercising an activity on their own account, such as setting up as a trader, craftworker or promoter of a private economic investment, and that any violation is punishable under section 243 of the Penal Code. Similarly, under sections 33 and 34 of the Act, all private employers before engaging workers are required to satisfy themselves that applicants are not covered by civic service or can produce documentation proving that they have discharged it, and that any private employer knowingly employing a citizen who has evaded civic service is liable to imprisonment and a fine. Therefore, although the persons liable to civic service benefit from working conditions (remuneration, seniority, promotion, retirement, etc.) similar to those of regular public sector workers, they discharge this service under threat because, in the event of their refusal, they are denied access to any professional self-employed activity or to any employment in the private sector. In those circumstances the requirement to perform civic service falls within the concept of compulsory labour contained in *Article 2, paragraph 1, of the Convention*. Furthermore, since it consists of a contribution by the persons concerned to the economic development of the country, this compulsory service violates *Article 1(b) of Convention No. 105*, which has also been ratified by Algeria.

The Committee recalls that forced labour means all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered her or himself voluntarily. Referring again to the explanations provided in paragraphs 55 to 62 of its 1979 General Survey on the abolition of forced labour, the Committee trusts that the necessary measures will be taken to repeal or amend the provisions in question in the light of Conventions Nos. 29 and 105 and that the Government will soon be able to report on the provisions adopted to this end.

2. *National service*. In its earlier comments since 1988, the Committee has referred to Ordinance No. 74-103 of 15 November 1974 issuing the National Service Code, under which conscripts are required to contribute to the operation of various economic and administrative sectors. It has also referred to the Order of 1 July 1987, which requires conscripts, after three months of military training, to serve in priority sectors of national activity, and particularly as teachers. The Committee notes that these are also required to perform two, three or four years of civic service (see point 1 above). The Committee recalled that, under the terms of *Article 2, paragraph 2(a)*, of the Convention, compulsory military service is excluded from the scope of the Convention only where conscripts are assigned to work of a purely military character. In the absence of information in the Government's latest report on this point, the Committee trusts that the needs of public education and other non-military sectors will be met without having recourse to compulsory labour and that the necessary measures will be taken to ensure compliance with the Convention on this matter. The Committee hopes that the Government will soon be in a position to report that the relevant provisions of the national legislation have been amended or repealed.

3. The Committee is addressing a request directly to the Government on certain other matters.

Brazil (ratification: 1957)

1. The Committee notes the detailed information supplied by the Government in its report, the information provided in reply to the comments made by the Latin American Central of Workers (CLAT) in October 1998, as well as the comments sent by the International Confederation of Free Trade Unions (ICFTU) in September 1999 which include information from Anti-Slavery International, the information supplied by the Government in its reply to these comments, which was received during the current meeting of the Committee, and data collected by two ILO missions during seminars on discrimination and forced labour held by the Turin International Training Centre in March and July 1999.

I. Information on forced labour practices

2. With regard to the comments sent by the International Confederation of Free Trade Unions (ICFTU) on 23 September 1999, transmitted to the Government on 7 October 1999, the Committee notes that the comments refer in general to the distressing situation of thousands of workers in various regions of the country, including over 3,000 female children who are said to be subject to debt servitude and forced to perform prostitution in the State of Rondonia.

3. In its reply to the comments of the ICFTU, the Government has supplied detailed information on the fight against child labour indicating that this is a human rights issue and that its eradication is a priority for the Government. The Government adds that the denunciations of child labour should not be analysed under the provisions of Convention No. 29 because child labour and forced labour occur in totally different contexts. The Government also indicates that the cases of forced labour detected mostly involve adult men without families and that the number of women and young people is negligible and the presence of children virtually inexistent. This is explained by the type of work in which most cases of forced labour are identified, namely deforestation for stock raising and clearing of pastures for the establishment of farming projects, and by the conditions of geographical isolation in which these workers live.

4. The Committee takes due note of the indications supplied by the Government. As regards the distinction to be drawn between the forced labour of children and child labour in general, the Committee earlier indicated that the question arises, with regard to *Article 2(1) of the Convention*, whether, and if so, under what circumstances a minor can be considered to have offered himself "voluntarily" for work or service, whether or when the consent of the parents is needed or even sufficient in this regard, and what are the sanctions for refusal.

5. It appears to the Committee that the work of children in conditions of debt bondage, including the forced prostitution of minors, fall within the scope of the Convention. While noting with interest the Government's indications that the fight against child labour is one of its priorities, the Committee hopes that the Government will take appropriate measures to investigate fully the allegations of debt bondage of minors forced into prostitution in the State of Rondonia and that it will supply full information on the results of such investigation and any further measures taken.

II. Enforcement of the prohibition of forced labour

6. The Committee notes that the comments sent by the CLAT in October 1998, supplementary to the representation submitted in February 1993, refer to the impunity of those who impose forced labour, delays in judicial procedures, the failure to apply sanctions, the lack of coordination between public bodies and the support of certain political sectors for those responsible for the exaction of forced labour. The CLAT indicates that all these problems demonstrate that the measures adopted by the Government have not been sufficient to solve the problems of applying Conventions Nos. 29 and 105. The Committee notes the detailed information supplied by the Government in reply to the CLAT's comments, in a communication dated 18 February 1999.

7. The Committee recalls that under *Article 25* of the Convention the illegal exaction of forced labour shall be punishable as a penal offence and it shall be an obligation on the Government to ensure that the penalties imposed by law are really adequate and are strictly enforced.

(a) Penalties provided in legislation

8. In its previous observation, the Committee expressed its concern at the absence of effective legislation commensurate with the situation for combating forced labour, which would consolidate the various aspects of "degrading labour", including the concept of forced labour. On this matter, the Committee notes that Bill No. 929 of 1995 to which it referred in its previous observations was adopted as Act No. 9777 of 29 December 1998, amending sections 132, 203 and 207 of the Penal Code. This Act supplements section 149 of the Penal Code (reducing someone to a condition analogous to slavery) by:

- increasing by one-sixth to one-third or more the penalties of imprisonment between three months and one year for anyone who endangers the life or health of another person as a consequence of transporting workers in violation of legal provisions for the purpose of subjecting them to illegal labour practices (section 132 of the Penal Code);
- a penalty of imprisonment of between one and two years (formerly, the penalty was from one month to one year) for anyone who forces workers to use or consume products sold by a specific establishment to oblige them to contract a debt preventing them from leaving their employment when they so wish (section 203 of the Penal Code);
- a penalty of imprisonment of from one to three years (formerly, the penalty was from two months to one year) and a fine to anyone who fraudulently recruits workers from outside the locality in which the work will be performed or exacts payment from the worker or fails to provide his return to the place of origin (section 207 of the Penal Code). These penalties are increased if the victims of the violations are minors, elderly people, pregnant women or indigenous people, or if they suffer from any physical or mental disability.

9. The Committee notes that most of the situations of forced labour found in the country have similar common characteristics such as misleading contracts ("enticement"), the impossibility for workers to leave their employment when they so wish because they have contracted debts in the employer's shops and because the workers are forced to pay for their work tools, lack of freedom to leave the employment because it is often in remote places with difficult access, confiscation by the employer of the worker's personal documents (identity and employment cards), ill-treatment inflicted on the worker which sometimes results in death, and long working days of up to 18 hours without water or proper food. The Committee notes with satisfaction that the adoption of Act No. 9777 has solved certain problems of qualification and provided the possibility of punishment with increased penalties for conduct related to forced labour practices.

(b) Strict enforcement of penalties

10. In its previous observation, the Committee noted that few penal sanctions had been imposed on those responsible for the exaction of forced labour. The tripartite Governing Body Committee which examined the representation submitted by the CLAT moreover observed that in the few cases where persons responsible for exacting forced labour had been convicted, these had been intermediaries or small owners or leaseholders, while the owners of large estates or enterprises using the "services" of "third party" enterprises or individual intermediaries for conducting part of their production activities under conditions of forced labour went unpunished. The Committee noted that a penalty of confiscation of the lands of persons who exact forced labour and who are recidivists, may be imposed after declaring these properties to be of public interest for the purpose of agrarian reform. The Committee notes that several estates have been declared to be of public interest. Nevertheless, according to information from Anti-Slavery International supplied by the ICFTU, the penalty of confiscation has been imposed only once, in the case of the "Flor da Mata" estate in the State of Pará, and the owner was compensated for the loss of his land, which largely eliminates the dissuasive nature of the penalty. The Committee also notes that the sentence of two years' imprisonment that was imposed on an employer for violation of section 149 of the Penal Code, to which it referred in its previous observation, was commuted to carrying out community service without deprivation of freedom.

11. On this matter, the Committee recalls that the actions of the labour inspectorate are not sufficient in themselves to combat and suppress cases of forced labour found in a particular country unless they can rely on the support of a strong judicial system capable of imposing severe punishment on violators within a reasonable period of time. The Committee notes the information contained in the Government's report in reply to its previous observation, to the effect that some progress has been made in speeding up the trials of persons accused of subjecting others to forced labour. As an example, the Government refers to the fact that in many cases locating witnesses had been difficult and had delayed the procedures, and that at present in the State of Marabá cases are investigated on the basis of information collected by labour inspectors and federal police agents who take part in inspection operations. The Government also states that when the labour inspectorate identifies forced labour practices, the Ministry of Labour applies the administrative sanctions within its competence and, where it believes that a penal offence has been committed, it transmits the cases to the Federal Attorney-General's office which takes the necessary legal measures. The Committee suggests to the Government that it take into consideration the proposals of the public labour prosecutors who took part in the abovementioned seminars to consider the possibility of adopting specific and consolidated legislation on forced labour establishing both civil and criminal responsibility in such cases and giving the labour prosecutors the necessary competence to bring criminal cases against persons who subject others to forced labour practices. In the Committee's opinion, this could contribute to resolving the problems encountered through the apparent lack of coordination between the various bodies and would facilitate rapid and concerted action, resolving the extreme slowness of the judicial process.

12. The Committee hopes that the Government will supply detailed information in regard to the application in practice of the new legal provisions, the number of persons

who have been sentenced or brought before the courts for violation of sections 132, 149, 203 and 207 of the Penal Code and the latter's general impact on combating forced labour.

13. The Committee observes that on various occasions the Government has expressed its intention to eradicate forced labour in the country and, for this purpose, has taken certain measures to improve application of the Convention, particularly the establishment of the Executive Group for the Abolition of Forced Labour (GERTRAF) and of the special labour inspection groups and the adoption of new legislation which covers certain conduct related to the practice of forced labour. Nevertheless, it notes that the failure to apply effective sanctions, the impunity enjoyed by those responsible, the slowness of judicial processes and the lack of coordination among the various governmental bodies in the campaign against those responsible for exacting forced labour hinder the effective eradication in a reasonable time of this scourge. The Committee urges the Government to renew its efforts at all levels to eradicate throughout the country, once and for all, the practice of forced labour. It hopes that the Government will soon report improvement and progress in these areas.

Burundi (ratification: 1963)

In the comments that it has been making for several years, the Committee has requested the Government to provide information on the measures taken to bring certain provisions of the national legislation into conformity with the Convention. In its latest report, the Government states that the situation of the country with regard to the Conventions on forced labour has not changed since the transmission of its 1993 report, as the crisis has prevented the adoption of new texts which are in accordance with the Convention. The Committee notes this statement and hopes that the Government will soon be in a position to provide information on the practical steps that it has taken on the following matters, which were raised in previous comments:

> 1. In its previous comments concerning Ordinances Nos. 710/275 and 710/276, establishing obligations respecting the conservation and utilization of the land and the obligation to create and maintain minimum areas of food crops, the Committee emphasized the need to set out in the law the voluntary nature of agricultural work.
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> The Committee noted the Government's statement that measures to repeal these Ordinances should be envisaged in the very short term. The Committee requests the Government to supply the texts repealing the above Ordinances, once they have been adopted.
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> 2. The Committee referred to certain texts relating to compulsory cultivation, porterage and public works (the Decree of 14 July 1952, Ordinance No. 1286 of 10 July 1953, the Decree of 10 May 1957) and recommended that they be formally repealed.
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> The Committee noted the Government's statement that explicit measures to repeal the above texts are justified, principally due to their colonial nature and the fact that they have fallen into abeyance, and that measures have been taken with a view to repealing them.
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> The Committee requests the Government to supply a copy of the texts which are adopted for this purpose.
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> 3. The Committee noted that Legislative Decree No. 1/16 of 29 May 1979 establishes the obligation, under penalty of sanctions, to perform community development work.
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> The Committee noted that a study transmitted by the Government recommended that the text in question be repealed and be replaced by the relevant provisions of Legislative

Decree No. 1/11 of 8 April 1989 to reorganize communal administration. The Committee requests the Government to supply information on the provisions adopted in this respect.

4. With reference to sections 340 and 341 of the Penal Code, which establish sanctions for vagrancy and begging, and to its previous comments, the Committee noted that an opinion had been requested from the Ministry of the Interior on this subject. The Committee requests the Government to supply information concerning the action which is envisaged to follow up its comments and on the programme of vocational rehabilitation which the Government considers should prevent vagrancy and begging by providing assistance to persons without employment. The Committee noted Ordinances Nos. 660/161 of 1991, 660/351/91 and 660/086/92, the texts of which were supplied by the Government.

The Committee hopes that the Government will make every effort to take the necessary measures in the near future.

Cameroon (ratification: 1960)

The Committee notes the Government's report.

1. The Committee refers to its previous comments requesting the repeal or amendment of Act No. 73-4 of 9 July 1973 instituting the National Civic Service for Participation in Development, which allows the imposition of work in the general interest on citizens aged between 16 and 55 years for 24 months with penalties of imprisonment for refusal. The Committee notes the Government's explanations that non-repeal of the Act in question is linked to the pace of adoption of texts by the institutions of the Republic and that, since the National Office for Civic Service has been dissolved, the probability of there being cases of forced labour is unlikely.

Recalling that this Act has been the subject of comments for over 20 years, the Committee trusts that the Government will do its utmost to give priority to bringing the legislation into conformity with the Convention on this point and that it will indicate the measures taken.

2. *Freedom to leave the service of the State.* In its previous comments, the Committee noted that under the provisions of Act No. 80/12 of 14 July 1980, officers recruited by competition sign a contract of indeterminate duration which means in practice that they are required to serve until the age limit for their grade and that applications for resignation are accepted only on exceptional grounds.

The Committee noted the Government's indications that under sections 53 and 55 of the abovementioned Act, resignation of career members of the armed forces can be accepted on the following grounds: the person in question is recognized as the family breadwinner; he must succeed to his father, particularly if the latter is a traditional chief; or he believes he will have greater opportunities in an elective post.

Referring again to paragraphs 67 to 73 of its 1979 General Survey on the abolition of forced labour, the Committee recalls that persons in the service of the State, including career members of the armed forces, should have the right to leave the service in peacetime within a reasonable period, either at specified intervals, or with previous notice, subject to the conditions which may normally be required to ensure the continuity of the service.

The Committee hopes that the necessary measures will be taken to ensure that career members of the armed forces may leave the service within a reasonable period and that the Government will indicate the provisions adopted to this end.

3. *Article 2, paragraph 2(c), of the Convention.* The Committee has for very many years referred to the provisions of Decree No. 73-774 of 11 December 1973 promulgating the prison system which permitted the hiring of prison labour to private enterprises and individuals, and has asked the Government to take steps to prohibit this practice. The Committee noted the statement by the Government representative to the Conference Committee in 1990 drawing attention to measures adopted by the Ministry of Territorial Administration to prevent prison labour from being hired to, or placed at, the disposal of private individuals or companies. In its report received in 1996, the Government states that no new provisions have been adopted and that it would not fail to provide information on any action taken along the lines hoped for by the Committee.

In its latest report, the Government indicates that Decree No. 73-774 of 11 December 1973 promulgating the prison system has been repealed and replaced by Decree No. 92-052 of 27 March 1992. The Committee notes with regret that sections 51 to 56 of that decree still provide for the transfer of prison labour to private enterprises and individuals. It notes the Government's statement in its report that the problem of consent does not arise since requests exceed demand and the prisoners' freedom of choice is thus safeguarded.

The Committee notes that under sections 51 to 56 of Decree No. 92-052, the transfer of prison labour is not subject to consent by those concerned. Moreover, there cannot be real freedom of choice since the prison workforce, defined in section 53 as liable to compulsory labour, has no access to work, in law and in practice, other than in conditions established unilaterally by the prison administration. The absence of free choice is confirmed by section 56 of the Decree under which, without regard to the usual compulsory work and hiring out of prison labour, prisoners may be used without payment by the prison administration for productive work and work of general interest.

The Committee recalls that the transfer of prison labour to private enterprises and individuals is specifically covered in *Article 2, paragraph 2(c)*, of the Convention and, as it has indicated on many previous occasions, it is only when carried out in the framework of a free employment relationship that work for private enterprises and individuals may be considered to be compatible with the specific prohibition of *Article 2, paragraph 2(c)*. That necessarily requires the formal consent of the person concerned and, bearing in mind the circumstances of this consent, there must be supplementary guarantees covering the essential elements of a labour relationship, including a level of remuneration and social security corresponding to a free labour relationship for the employment to be outside the scope of *Article 2, paragraph 2(c)*, which prohibits unconditionally that persons obliged to perform prison labour be hired to, or placed at the disposal of, private enterprises.

The Committee hopes that the necessary measures will finally be taken to bring national provisions governing prison work into conformity with the Convention on these points. It requests the Government to supply information on any provisions adopted to this end and, meanwhile, to communicate copies of the implementing instruments mentioned in sections 51, paragraph 1, 52 and 53, paragraph 2, of Decree No. 92-052 of 27 March 1992, regulating the prison system in Cameroon.

The Committee is addressing a request directly to the Government on another matter.

Comoros (ratification: 1978)

The Committee notes that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

> *Article 1, paragraph 1, and Article 2, paragraphs 1 and 2(c), of the Convention.* 1. In its comments over a number of years, the Committee has drawn the Government's attention to section 1 of Order No. 68-353 of 6 April 1968, under which labour is compulsory for all persons in detention. It noted the Government's statements according to which, in practice, persons in detention are not compelled to work and requested the Government to amend the provision in question to ensure that legislation reflects actual practice. In its last report received in 1997, the Government indicated that during recent years, the prison administration had been adversely affected by frequent changes at ministerial level, but that the management of detention centres was being transferred back to the Ministry of Justice, which would facilitate the implementation of an improved prison policy. The Committee therefore trusts that the Government will do everything possible in the near future to ensure through legislation that prisoners are not compelled to work except as a consequence of a conviction in a court and only under conditions stipulated by the Convention; and that prisoners and persons held in detention who have not been tried are not compelled to work and may work only on a purely voluntary basis and at their request.
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> 2. In its earlier comments, the Committee also referred to section 7, paragraph 2 of the Order in question, according to which prisoners whose conduct is considered satisfactory can work for a private employer with a view to their moral rehabilitation and readaptation to normal working life. It requested the Government to provide information on the practice of private individuals or companies using prison labour. The Government stated that punishment involving the deprivation of liberty of prisoners in agricultural institutions could help to eliminate idleness, reduce the temptation to escape, and provide a regular diet and income, part of which would be used to pay compensation. The Committee requests further information about the arrangements for prisoners working in agricultural institutions including their supervision, income and payment of compensation.
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> The Committee noted that a survey was under way on the role of the prison in the country's penal system and that alternative punishments such as community service were to be incorporated in the Penal Code. The Committee hopes that the revision of prison legislation will be completed in the near future, that it will take account of the provisions of the Convention concerning in particular the conditions for the use of prison labour, as explained in paragraphs 97-101 of the General Survey of 1979 on the abolition of forced labour and also explained in paragraphs 116-125 of the 1998 General Report, and that copies of any new texts will be provided.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Congo (ratification: 1960)

The Committee notes that the report transmitted by the Government in 1999 contains no responses to the Committee's previous comments. Consequently, the Committee is bound to reiterate its 1997 comments on the following points:

> 1. Since 1961, the Committee had requested the Government to repeal Act No. 24-60 of 11 May 1960, which permits the requisitioning of persons to undertake work of public interest that is not confined to cases of emergency and which imposes penalties of imprisonment ranging from one month to one year in the event of refusal.

The Committee noted that, after having long indicated its intention of repealing the above Act, the Government had stated that it was prepared only to restrict its scope to cases of emergency as laid down in *Article 2, paragraph 2(d), of the Convention*.

The Committee again requests the Government to take the necessary measures to ensure respect for the Convention on this point and to indicate progress made in this direction.

2. In its previous comments, the Committee had noted that the Government may call upon the population to perform certain sanitation work. The Government had indicated that this practice derived from section 35 of the Statutes of the Congolese Labour Party. In its latest report, the Government had indicated that mobilization of the population for work of collective interest – a practice which was in force at the time of the single-party system – no longer existed, pointing out that such tasks (weeding, sanitation work) were now carried out on a voluntary basis by associations and by the employees of the State and local communities.

The Committee again requests the government to indicate the measures taken or envisaged to establish in law or through regulations the voluntary nature of the work performed by the population, so as to ensure effective observance of the Convention.

3. *Article 2, paragraph 2(a).* On several occasions, the Committee had drawn the Government's attention to section 4 of Act No. 11-66 of 22 June 1966 establishing the National People's Army and section 1 of Act No. 16 of 27 August 1981 introducing compulsory national service. The former provides that the Army must actively participate in the tasks of economic construction for productive economic enterprise and the latter stipulates that national service, which comprises both military and civic service, enables every citizen to take part in the defence and construction of the nation.

The Committee had drawn the Government's attention to *Article 2, paragraph 2(a)*, of the Convention which provides that work or service exacted in virtue of compulsory military service laws is excluded from the scope of the Convention only when it is performed for work of a purely military nature. The work exacted from recruits as part of national service, including work related to national economic development was not work of a purely military character and the Committee had referred in this connection to paragraphs 24 to 33 and 49 to 62 of its 1979 General Survey on the abolition of forced labour.

In regard to section 4 of Act No. 45/75 of 15 March 1975 which exempted from the prohibition of forced or compulsory labour, inter alia, "obligations arising out of the civic service for youth", the Committee had noted with interest that this exemption was not maintained in section 4 of Act No. 6-96 of 6 March 1996, amending and supplementing certain provisions of the Act of 15 March 1975 which establishes the Labour Code for the People's Republic of the Congo.

The Committee had noted the Government's statement to the effect that a multi-party system had been introduced and the National People's Army had been replaced by the Congolese Armed Forces, undergoing restructurization. However, the latest report contained no information regarding the tasks carried out by recruits in the application of the provisions of Act No. 16 of 1981 with respect to compulsory national service.

The Committee again requests the Government to provide information on the effect given in practice to the provisions of Act No. 16 of 27 August 1981, to supply a copy of the Decree adopted under section 12 of this Act and to indicate the measures taken or envisaged to ensure compliance with the Convention on this matter.

4. In its previous comments, the Committee had referred to section 17 of Act No. 31-80 of 16 December 1980 on guidance for youth under which the party and mass organizations would gradually establish the full conditions for the formation of youth brigades and the organization of youth workshops where young people would be employed.

The Committee had noted that a draft text relating to voluntary work by young people was in the process of being approved and had requested precise information on the nature of the work carried out, the number of persons concerned and the duration and conditions of employment.

The Committee had noted the Government's indication that these practices fell into abeyance with the advent of democracy in 1991, the immediate consequence of which was the introduction of a political pluralism. The Committee had noted that the report did not indicate whether Act No. 31-80 was still in force and, if so, did not contain the information requested on its application in practice.

The Committee again requests the Government to indicate the measures taken or envisaged to bring national legislation into conformity with the Convention on this subject.

5. The Committee had been informed that traditional forms of slavery continue to be practiced in the country, and in particular, forced labour by Pygmies, who were bonded for life to their Bantu owner in plantations in the north in the Ouesso district. The Committee also noted information on cases of slavery among Bantus in the port town of Point Noire. The Committee requests the Government to supply any relevant information on the situation.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Democratic Republic of the Congo (ratification: 1960)

The Committee notes with regret that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

1. For several years the Committee has been asking the Government to repeal or amend certain legislative texts and regulations which are contrary to the Convention. They are:

- Act No. 76-011 of 21 May 1976 concerning national development efforts and its Implementing Order No. 00748/BCE/AGRI/76 of 11 June 1976 which requires, under penalty of penal sanctions, every able-bodied adult person who is not already considered to be making his contribution by reason of his employment (political representatives, wage-earners and apprentices, public servants, tradesmen, members of the liberal professions, the clergy, students and pupils), to carry out agricultural work and other development work as decided by the Government;
- sections 18 to 21 of Legislative Ordinance No. 71/087 of 14 September 1971 on minimum personal contributions, which provides for the imprisonment involving compulsory labour of tax defaulters by decision of the chief of the local community or the area commissioner, as a means of recovering the minimum personal contribution.

The Committee noted the information reiterated by the Government stating that there were draft amendments to the provisions in question.

The Committee expresses the strong hope that the Government will shortly take the necessary measures to ensure full application of the Convention.

2. *Article 2, paragraph 2(c), of the Convention.* The Committee drew the Government's attention to Ordinance No. 15/APAJ of 20 January 1938 respecting the prison system in native districts, which allows work to be exacted from detainees who have not been sentenced.

The Committee noted, on the one hand, the Government's indications that the text had fallen into disuse and was contrary to Ordinance No. 344 of 17 September 1965 governing prison labour and, on the other, the Government's intention to repeal it.

> The Committee also noted the information supplied by the Government to the effect that the Supreme National Conference has decided to reform the penitentiary system and repeal certain provisions of the law. The Committee expresses strongly the hope that measures will be taken in the near future to bring national legislation and practice into conformity with the Convention.
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> 3. *Article 25.* In its earlier comments, the Committee stressed the need to include a provision in the national legislation establishing penal sanctions for persons who unlawfully exact forced or compulsory labour, in accordance with *Article 25* of the Convention.
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> The Government indicated that, in view of the changes in industrial relations and personal freedoms, the revised draft of the 1967 Labour Code was under consideration and that provisions establishing penal sanctions for persons exacting forced labour would be inserted into it.
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> The Committee expresses strongly the hope that the Government will shortly bring legislation into conformity with the requirements of *Article 25* of the Convention.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Guatemala (ratification: 1989)

1. The Committee notes the Government's reports.

2. The Committee referred in its previous observation to the recommendation of the committee set up by the Governing Body to examine a representation against Guatemala under article 24 of the Constitution. That committee recommended the repeal of Legislative Decree No. 19-86, which provided for the compulsory enlistment of hundreds of thousands of people in so-called Civil Self-Defence Patrols (PACs) and Voluntary Civil Defence Committees (CVDCs).

3. Referring also to its observation under the Abolition of Forced Labour Convention, 1957 (No. 105), the Committee notes with satisfaction the repeal of Decree No. 19-86 by Decree No. 143-96, which came into force on 30 December 1996.

4. The Committee also notes with interest that the abovementioned civil defence committees have been demobilized and disarmed, under international control, in the framework of the peace agreements signed by the Government. From this point of view, the Committee therefore notes that the Government has taken measures to give effect to the conclusions of the Governing Body at its 267th Session in relation to the abovementioned representation.

5. The Committee notes that the Government's reports do not contain any information with regard to the application of *Article 25 of the Convention.* The Committee notes in this respect that the Governing Body stated in its conclusions that "persons accused of having exacted forced labour have benefited from impunity in cases where the Attorney General of the Republic of Guatemala has issued a decision concerning their responsibility and that the appropriate judicial action has not been taken against them". The Governing Body therefore urged the Government "to ensure the rapidity of the judicial processes and inquiries undertaken concerning the exaction of compulsory labour and to guarantee the imposition of penalties and their strict enforcement". The Committee believes that it is necessary to recall once again that in accordance with *Article 25* of the Convention, the illegal exaction of forced or compulsory labour shall be punishable as a penal offence, and it shall be an obligation on

any Member ratifying the Convention to ensure that the penalties imposed by law are really adequate and are strictly enforced. The Committee therefore requests the Government to provide information in its next report on the measures which it has taken to give effect to the above recommendations so that it can examine the manner in which these points have been followed up.

The Committee is addressing a request directly to the Government on other matters.

Haiti (ratification: 1958)

The Committee notes the Government's report.

The Committee refers to its previous comments in regard to the employment of children as domestic servants, known as "restavek". It recalls that under section IX of the Labour Code (L.S. 1984-Haiti 1) on children employed in service, the Directorate of the Social Welfare and Research Institution (IBESR), which is represented in every regional office of the Ministry of Social Affairs, plays a key role by: issuing the permit needed for any person to take a child into his service; drawing up a report on any act of violence committed on the person of the child; arranging for visits to households in which there are children in service in order to inquire about their living conditions; requiring the labour court to impose the fines provided for any breach of the provisions set out in the section; and regulating in detail the obligations of employers of children in service and the rights of the children as well as the protection which must be accorded to them. In towns where there is no regional office of the Ministry of Social Affairs, the municipal administration supervises execution of the provisions of this chapter on children in service and issues the authorizations and certificates required.

In its previous observation, the Committee noted the Government's commitment to communicate statistics in respect of the activities of the IBESR, the municipal authorities and the labour courts, and to conduct an exhaustive study into general working conditions. The Committee notes that the Government's report contains no information on these points and takes due note of the Government's wish to obtain the support, aid and cooperation of the ILO.

On this matter, the Committee notes with interest that a project of the ILO's International Programme for the Elimination of Child Labour (IPEC) has just been established in Haiti in order to assist the Government in combating effectively child labour in general, and the "restavek" system in particular. The Committee hopes that the Government will send a copy of the national plan of action to fight child domestic work which will be adopted in the framework of this project, as well as any relevant information on developments noted, results obtained, statistical data established and legislative or regulatory measures taken.

Furthermore, the Committee hopes that the Government will specify the amount of the fines that can be imposed under the provisions of section IX of the Labour Code, as amended, and that it will provide any indications it deems useful concerning the issue of whether these amounts constitute, under *Article 25 of the Convention*, "really adequate" penalties.

Finally, the Committee trusts that the Government will supply detailed information on the practical application of Chapter IX of the Labour Code, including statistics on the number of permits issued by the IBESR and by the municipal administrations in regard to taking children into domestic service, on the visits and inquiries made in households where there are children in service, on breaches to the provisions of section IX noted, on the reports prepared and inquiries addressed to the labour court by the IBESR, as well as the fines imposed and damages awarded in application of these provisions.

India (ratification: 1954)

The Committee notes the Government's detailed responses contained in the report of 18 August 1999 and its annexes and also the report dated 5 November 1999 which responds to the matters raised by the International Confederation of Free Trade Unions (ICFTU) communications dated 23 September and 11 October 1999. The Committee further notes the Government's most recent information in its communication of 3 December 1999.

The three important topics of forced labour which are referred to in the above material concern bonded labour, and also the vulnerable position of children forced by dire economic and other factors to work in industries, occupations or processes in the formal and informal sectors, as well as children being used for prostitution purposes.

Bonded labour

1. The Committee notes that one of the controversial issues on this topic concerns the reliability of statistics on the number of bonded labourers in India. Criticisms have been made in the communication by Anti-Slavery International, transmitted by the ICFTU, stressing the necessity for a comprehensive survey to be carried out on bonded labour. In urging such action, Anti-Slavery International refers to the similar recommendation made by the United Nations Human Rights Committee at its Sixtieth Session (Geneva, 1997) in paragraph 29 of its report in which that Committee recommended that a "thorough study be urgently undertaken". The estimates given on the numbers of bonded labourers in India have varied from an estimated 10 million by Anti-Slavery International, to 5 to 10 million referred to by Employer members at the Eighty-Sixth Session of the International Labour Conference (Geneva, 1998), to 280,340 identified by the Government as at 31 March 1999.

2. The Government also stated that since the enactment of the Bonded Labour System (Abolition) Act, 1976, up to March 1999, 280,340 bonded labourers have been identified by the state governments, 243,375 have been released and rehabilitated, about 20,000 have either died or migrated to other parts and 17,000 are in the process of being rehabilitated. The Government also indicated that, out of 24,918 bonded labourers identified in Tamil Nadu, as of 31 March 1999, action has been initiated to release and rehabilitate 11,578 bonded labourers. The Government also refers to surveys conducted by state governments during October-December 1996 in pursuance of Supreme Court directions and to 23,916 bonded labourers identified. The Government indicates that its statistics are based on detailed surveys carried out by the state governments concerned, and that these are more authentic and realistic figures based on grass roots-level work.

3. The Committee recognizes that the compiling of accurate data can be difficult. It is rendered more difficult by the federal nature of government and the difficulties of coordination with local regions. There is also the problem that bonded labour is often

hidden. The users make efforts to disguise its operation and the victims are sometimes so scared and oppressed that they are unwilling to admit its existence.

4. Whilst recognizing these difficulties, the Committee is also concerned about the disparity of statistics over the years and urges that the Government undertake a comprehensive survey using a valid statistical methodology to be also broken down by gender. The Committee encourages the Government to utilize the services of an independent body to assist in developing the methodology and conducting the survey. The Committee notes that the Government had previously performed the 1978-79 survey under the joint auspices of the Gandhi Peace Foundation and the National Labour Institute. The Committee emphasizes that accurate data are a vital step in both the development of the most effective systems to combat the problem of bonded labour as well as providing a true base for the assessment of effectiveness of those systems.

5. With regard to the initiatives taken by the Government to eradicate bonded labour throughout the country, the Committee notes from the Government's report that the action includes the following:

- that during 1998-99, 5,960 bonded labourers have been rehabilitated under the centrally sponsored scheme in the States of Tamil Nadu, Uttar Pradesh, Bihar and Orissa;
- that with regard to rehabilitation, there is a government proposal to grant Rs.20,000 as subsidy to each bonded labourer, which is now being processed in consultation with the Ministry of Finance. Further, other benefits are available under different anti-poverty programmes such as Indira Awas,Yojna, National Rural Employment Programme (NREP), Integrated Rural Development Programme (IRDP), and the old-age pension, etc. to assist freed bonded labourers for their effective rehabilitation;
- that senior officials have been deputized to visit certain areas during August 1998 to February 1999 to review and monitor the progress made by the state governments in the implementation of the Bonded Labour System (Abolition) Act, 1976, and the Bonded Labour Rehabilitation Scheme, 1978. The Committee also noted the copies of instructions and guidelines given to officers of the state governments;
- that review meetings were held regularly at the central level by the Ministry of Labour with the state government representatives, the latest of which was held in December 1998. At the December meeting, it was decided to conduct fresh surveys to identify bonded labour, to make various arrangements after identification, such as issuing release certificates, repatriation in the case of migrant workers, etc., and to formulate proposals for rehabilitation, as well as to initiate action against the employers under the provisions of the Act. State government representatives had been requested to ensure the constitution of vigilance committees at district and subdivisional levels, as required under section 13 of the Act, to convene such committee meetings regularly and to maintain close and constant surveillance on the occurrence and recurrence of bonded labour in their area. Further to that meeting, other meetings were held with state governments of Tamil Nadu, Bihar, and Uttar Pradesh in March and July 1999. In these meetings, state governments were advised to conduct periodic surveys through their existing machinery and also

to indicate specific areas to be surveyed, the agencies to be selected and methodology to be adopted;

- that the subject of bonded labour has been reviewed as a human rights issue by the Supreme Court of India, which by an order given on 11 November 1997 in Writ of Petition No. 3922/85, has directed the National Human Rights Commission to oversee and supervise the implementation of the Bonded Labour System (Abolition) Act, 1976, and the progress made by the state governments in this regard. In pursuance of this direction, a central action group was constituted in August 1998, under the chairmanship of a former Chief Justice of India. That group has held four meetings and has appointed special rapporteurs.

6. The Committee welcomes this information but at the same time observes that 20 years after the adoption of the Bonded Labour System (Abolition) Act, 1976, the system of bonded labour still exists and therefore enjoins the Government to continue to pursue its eradication with vigour.

7. The Committee asks the Government to:

- send updated and detailed statistical information on the identification, the release and the rehabilitation of bonded labourers, as well as a copy of the periodic surveys conducted by state governments, particularly those mentioned above;
- forward copies of the reports by the senior officials who reviewed and monitored the progress made by the state governments in the implementation of the legislation on bonded labour, as mentioned by the Government, so that the Committee may assess the situation and the efforts made at the different levels of government;
- forward copies of the reports on the review meetings regularly held at the central level by the Ministry of Labour with the state government representatives, particularly the December 1998 meeting and any further meeting. In addition, the Committee also asks the Government to indicate how the application of the decisions taken at the December 1998 meeting are monitored, and what was the outcome, in practice, of the decisions to initiate action against employers under the Act and to ensure that these are effective and properly constituted vigilance committees, including some independent persons, at district and subdivisional levels;
- forward copies of the reports on the meetings held with state governments of Tamil Nadu, Bihar, and Uttar Pradesh in March and July 1999;
- communicate copies of any reports on bonded labour by the Human Rights Commission, the Central Action Group and the special rapporteurs appointed by them;
- finally, following on its previous observation, the Committee again asks the Government to communicate details on measures and programmes pursued in cooperation with workers' and employers' organizations at the national and local levels.

Child labour

8. As regards child labour, the Committee notes the information in the Government's report, and in the communication by Anti-Slavery International

transmitted by the ICFTU. It appears that the Government's response to the ICFTU observations do not address the issue of child labour. The Committee also notes information from the International Programme for the Elimination of Child Labour (IPEC) on the matter, and the Government's report to the UN Committee on the Rights of the Child (document CRC/C/28/Add.10, 7 July 1997).

9. The Committee takes note of the indications in the Government's report:

- that with respect to industries, about 106,000 children have been identified as having been employed in hazardous industries. About 400,000 children have been employed in non-hazardous industries and been brought into formal systems of education as a rehabilitation measure;
- that a notification was issued on 27 January 1999 to add six more occupations and 33 processes to the Schedule of the Child Labour (Prohibition and Regulation) Act, 1986, bringing the total to 13 occupations and 51 processes;
- that 12 national child labour projects were started in Andhra Pradesh, Bihar, Madhya Pradesh, Maharashtra, Orissa, Rajasthan, Tamil Nadu and Uttar Pradesh as well as 76 projects, covering 150,000 children, under national child labour schemes;
- that the Cabinet Committee on Economic Affairs (CCEA) on 20 January 1999 approved an increase in the national child labour projects from 76 to 100, which is anticipated to benefit about 200,000 working children through rehabilitation;
- that during 1998-99, 130 projects were approved for coverage of 90,574 children. It also notes that the continuation of the national child labour projects for the duration of the Ninth Plan has been approved;
- that the Government has initiated steps for giving effect to the directions of the Supreme Court in its judgement dated 10 December 1996 in Writ of Petition No. 465 of 1986. In this respect the Committee notes that the Supreme Court reiterated its earlier decision concerning free and compulsory education up to the age of 14 years and also directed that the employer who employed a child in contravention with the provisions of the Child Labour (Prohibition and Regulation) Act, 1986, shall pay as compensation a sum of Rs.20,000 per child to be deposited in a special rehabilitation fund.

10. The Committee welcomes the abovementioned actions and acknowledges the Government's statement that it is totally committed to the elimination of child labour, and that the efforts of the Government are to implement all child labour and other related laws in a sustained manner to prevent exploitation of children.

11. The Committee notes the indication in the Anti-Slavery International communication that many small production units – with fewer than ten persons where no electric power is in use, or fewer than 20 where electric power is used – are not subject to inspections under the Factories Act, 1948. Such units, for instance in *"pappad" (appalam)* production or in certain tanneries, employ children, directly or indirectly, and also as bonded labourers.

12. The Committee asks the Government to:

- comment on the abovementioned Anti-Slavery International communication and also to indicate what measures have been taken to address child labour in the unorganized sectors, i.e. in small-scale units not covered by the Factories Act, in cottage industries, particularly in such occupations as are hazardous to the child;

- report on an assessment of the impact of the Notification of 27 January 1999 extending the list of hazardous occupations and processes of the Schedule of the Child Labour (Prohibition and Regulation) Act, 1986;
- communicate copies of reports by the National Authority on Elimination of Child Labour, on actions taken to eliminate child labour, particularly child bonded labour;
- provide information on how effect is being given to the directions of the Supreme Court in its judgement referred to above.

Prostitution and sexual exploitation

13. The Committee in its previous observations commented on the sexual exploitation of children. The Committee had noted that a survey had been entrusted to the Tata Institute of Social Sciences and that its results would be communicated to the ILO. The Committee notes the brief mention in the Government's report as to steps taken by state governments in preventing and combating the problem of prostitution, child prostitutes and children of prostitutes.

14. The Committee notes that the report of the Committee on the Rights of the Child refers to there being no reliable statistics available about the number of prostitutes – least of all about child prostitutes – and that "no estimates are available even about the number of child *Devadasis* and *Joginis*, though these systems have been traditionally in existence as a socially sanctioned form of exploitation of women, particularly those from lower socio-economic groups in the States of Karnataka, Maharashtra and Andhra Pradesh". It also notes that the Government has constituted a Central Advisory Committee to frame recommendations and a plan of action for the rescue and rehabilitation of child prostitutes.

15. The Committee asks the Government to provide full and detailed information on this issue, by communicating a copy of the abovementioned survey, by providing information on action taken with respect to child *Devadasis* and *Joginis* in the States of Karantaka, Maharashtra and Andhra Pradesh as well as a copy of the recommendations of the Central Advisory Committee, and information on the implementation of their plan of action concerning the rescue and rehabilitation of child prostitutes.

The Committee would appreciate a comprehensive and fully documented report by the Government on the abovementioned points.

Islamic Republic of Iran (ratification: 1957)

Further to its previous comments on section 273bis of the Penal Code, under which any person who did not have definite means of subsistence and who, whether through idleness or through negligence, did not look for work, could be obliged by the Government to take employment, the Committee notes with interest from the Government's report that the Islamic Penal Code of 1996 has entirely repealed and replaced the previous Penal Code, including the abovementioned section.

The Committee looks forward to examining the full text of the Islamic Penal Code of 1996 and hopes that a copy will be made available by the Government.

The Committee is addressing a request on certain other points directly to the Government.

Kenya (ratification: 1964)

The Committee notes that the Government's report contains no reply to previous comments. It must therefore repeat its previous observation on the following points:

> Over a number of years the Committee has been referring to sections 13 to 18 of the Chief's Authority Act (Cap. 128) according to which able-bodied male persons between 18 and 45 years of age may be required to perform any work or service in connection with the conservation of natural resources for up to 60 days in any year. On many occasions it expressed the hope that these sections would be either repealed or amended so as to meet the criteria for "minor communal services" which are exempted from the scope of the Convention under *Article 2, paragraph 2(e), of the Convention.*
>
> The Committee previously noted the Government's intention to repeal or to amend sections 13 to 18 of the Act, as it was recognized that in law the aforementioned sections are not in full conformity with the Convention. The Committee noted that, in its latest report received in September 1996, the Government reaffirms its intention to repeal the Chief's Authority Act and to replace it with the Administrative Officer's Authority Act. The Committee hopes that the new Act will be adopted in the near future and that it will be in conformity with the Convention. It requests the Government to supply a copy of the Administrative Officer's Authority Act, as soon as it is adopted.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Liberia (ratification: 1931)

The Committee notes the Government's report.

1. In its previous observation, the Committee referred to a communication of the International Confederation of Free Trade Unions, dated 22 October 1998, by which a report on forced child labour in south-eastern Liberia was sent. That report, dated September 1998, had been prepared by Focus and the Justice and Peace Commission (JPC), two local organizations.

The Committee notes the Government's comments on that communication. It notes the report of the special investigation committee sent by the Government in May 1998 to investigate alleged forced labour in the south-eastern region. It notes that the special investigation committee did not find or establish any conclusive or physical evidence to confirm acts of forced labour in the region. The Committee however observes that the special investigation committee recommended in its report that a national committee be established to trace and reunite displaced women and children that were taken captive during the war and also that a committee be sent to investigate allegations of forced labour and hostage situations particularly in some parts of Grand Kru and Nimba Country. The investigation committee further recommended that, in order to enhance the National Reconciliation and Reunification Programmes, "local authorities should be directed to encourage their citizens to report any acts of alleged forced labour, intimidation, harassment, maltreatment for appropriate investigation and corrective measures".

In their report, Focus and JPC found that the case of forced labour was "a spillover of the gross abuses that characterized the civil war" and that it was a common practice of ex-combatants (mainly former commanders) of former warring factions who chose to take advantage of the extremely difficult economic situation in the region. The report stated that there are practices of exploitative and forced labour and captivity taking place in that part of the country, chiefly in the Government Camp area in Sinoe Country. The report also mentioned chief Solomon Moses (Chief Solo) in Sinoe Country and Chief Gonda, in Grand Gedeh Country, as alleged perpetrators, both of them being heads of Joint Security Forces. It mentioned the difficult situation of socially abandoned children who had to fend for themselves and orphans who, although in the care of some adult, "due to financial difficulties were made to perform tasks against their will" so as to "raise funds for their support". The Committee notes that in their recommendations, Focus and JPC urge the Government to address the plight of children in the south-east, especially that of children held hostage by adults and used as a source of forced and captive labour.

The Committee notes that both reports found that the south-eastern part of the country was in a grave humanitarian crisis and an extreme state of poverty and that any reported situations of exploitation were due to the consequences of the war. It further notes from the Government's latest report that the region is cut off to a very large extent from the rest of the country because of the bad state of the roads, that the limited resources available do not allow for the immediate building of the needed hospitals and schools and that because of the economic situation in the region, there are hardly any alternatives to farming, small-scale mining and other activities which require massive and cheap labour.

The Committee understands from the documents before it that the Government as well as Focus and JPC have independently sent teams to investigate the situation and report on it. It hopes that the Government will encourage joint efforts and cooperation between governmental bodies and non-governmental organizations at all levels with a view to the effective elimination of all forms of compulsory labour, including that of children, and that the Government will supply full information on measures taken to this end, as well as on action taken on the following recommendations of the special investigation committee:

(a) the establishment of a national committee to trace and reunite displaced women and children taken captive during the war;

(b) the sending of a committee to investigate allegations of forced labour and hostage situations particularly in Grand Kru and Nimba Country;

(c) directing local authorities to encourage the citizens to report any acts of alleged forced labour, intimidation, harassment, maltreatment, for appropriate investigation and corrective measures, in the framework of the National Reconciliation and Reunification Programmes.

The Committee furthermore hopes that the Government will take specific action to investigate the situation in the south-east as regards practices of forced labour, including allegations that children are held hostage by adults as captive labour, and more particularly the allegations that forced labour was being imposed in the Government Camp area in Sinoe Country and by heads of Joint Security Forces in Sinoe Country and

Grand Gedeh Country. The Committee hopes that the Government will supply full information on the action taken and the results.

II. *Article 25 of the Convention.* The Committee recalls that under *Article 25* of the Convention, the illegal exaction of forced labour shall be punishable as a penal offence and it shall be an obligation on the State to ensure that the penalties imposed are really adequate and are strictly enforced. It notes from the Government's latest report that the use of forced or compulsory labour is to be held a crime. The Committee hopes that the necessary action to give effect to *Article 25* of the Convention will be completed in the near future and that the Government will send the text of the Act as soon as it is adopted.

The Committee is addressing a direct request to the Government on other points.

Madagascar (ratification: 1960)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation on the following matters:

> 1. *Prison labour.* For several years the Committee has drawn the Government's attention to Decree No. 59-121 of 27 October 1959 (amended by Decree No. 63-167 of 6 March 1963) to establish the organization of the prison services, under which prison labour may be hired to private undertakings and prison work may be imposed on persons detained pending trial. The Committee requested the Government to repeal or to amend the legislation in question so as to bring it into conformity with the Convention.
>
> In the Government's previous reports, the Committee noted with interest the renewed statements to the effect that the hiring of prison labour had been abolished in Circular No. 10-MJ/DIR/CAB/C of 1 July 1970 and that people detained pending trial were no longer forced to undertake prison labour. The Committee also noted the repeated information provided by the Government according to which the revision of Decree No. 59-121 was being studied.
>
> In its report received in 1996, the Government indicates that the hiring of prison labour is still justified by the general economic recession prevailing in the country, since the administration has only a limited budget available which does not allow it to guarantee the vital minimum (food and shelter) for the prison population. The Government adds that the hiring of prison labour is permitted under section 70 of Decree No. 59-121, provided that the work undertaken is for the good of the country.
>
> The Committee recalls that under *Article 2, paragraph 2(c), of the Convention,* a prisoner shall not be hired or placed at the disposal of private individuals, companies or associations even if they are responsible for carrying out public works. The Committee also refers the Government to the explanations provided in paragraphs 97-101 of its 1979 General Survey on the abolition of forced labour.
>
> The Committee hopes that the Government will take the necessary measures to bring the legislation into conformity with the Convention, in particular by prohibiting, on the one hand, the hiring of prison labour to private individuals and, on the other hand, the imposition of prison labour on people detained pending trial.
>
> 2. *National service.* In its previous comments, the Committee referred to Act No. 68-018 of 6 December 1968 and to Ordinance No. 78-002 of 16 February 1978 relating to the general principles of national service, which define national service as the compulsory participation of all Malagasies in national defence and in the economic and social development of the country. The Committee also noted various texts which either referred to the powers of the military committee for developments with regard to work in support of the

local communities or laid down the procedure for incorporation into national service of young school-leavers and recruits of a particular age group, or changed the name of the units responsible for development (development forces), subject to the threat of various penalties and sanctions.

The Committee drew the Government's attention to the fact that under Decree No. 92-353 fixing the conditions for recruitment and methods for enforcing the obligations of national service on school-leavers, there is no act of voluntary nature in relation to the performance of national service, but merely with regard to the sector of assignment (outside the people's armed forces).

Furthermore, the Committee notes that Decree No. 92-353 was adopted pursuant to sections 2 and 4 of Ordinance No. 78-002. Under Act No. 68-018 and Ordinance No. 78-002, national service is defined as the compulsory participation, imposed for a period of up to two years, of part of the population, namely young Malagasies from 18 to 35 years of age, in the activities of national defence and the economic and social development of the country, under the threat of various penalties and sanctions.

The Committee recalls once again that forcing young people to participate in development work as part of compulsory military service – or as an alternative thereto – is incompatible with the Forced Labour Convention. Military service is excluded from the scope of the Convention only if it is confined to "work of a purely military character". In this regard, the Committee refers the Government to the explanations given in paragraphs 25, 27, 28, 29, 31, 32, 49 and 56-61 of its 1979 General Survey on the abolition of forced labour in which it provides clarifications as to the link between certain compulsory programmes involving the participation of young people in activities for the economic and social development of the country, and the Convention.

The Committee again expresses the hope that the Government will take the necessary measures to bring the legislation into conformity with the Convention, in particular by ensuring that young boys and young girls participate in national service on a voluntary basis and that the services required under the military service laws are of a purely military character.

The Committee notes the information provided by the Government according to which the political and social context has changed considerably since 1978 and consequently, the fact that Ordinance No. 78.002 of 16 February 1978 to introduce national service has lapsed may be invoked. It therefore requests the Government to repeal Ordinance No. 78.002 and Decree No. 92-353 so as to ensure the observance of the Convention.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Mauritania (ratification: 1961)

The Committee notes with regret that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

Article 1, paragraph 1, and Article 2, paragraph 1, of the Convention. 1. The Committee noted that a communication from the World Confederation of Labour (WCL) was received in October 1997, which included an observation on the application of the Convention. According to that observation, the Convention is violated through the persistence of practices equivalent to slavery, despite the Declaration of 1980 abolishing slavery. This communication was transmitted to the Government in November 1997 for comment. The Committee again requests the Government to transmit its comments on the above communication in its next report.

2. In this respect, further to its previous comments, the Committee recalls that it has been examining issues related to the condition of former slaves and the persistence of former slave-like relations for several years. The Committee noted that slavery had been abolished by several texts. It also noted that, according to the Government, isolated cases of its persistence in practice might still be found. In this respect, the Committee notes a transaction which occurred in December 1997 in Timzine, in the Kobony Department, in the region of Hodh el Gharby, which consisted of the cession of 40 persons to pay a debt after a death. The transaction took place in the presence of a cadi. The purchaser freed the persons who had been acquired in this manner. The Committee welcomes this act of liberation. However, it wishes to express once again its great concern at the persistence of such situations.

3. The Committee considers that persons who are in a situation in which their relations are similar to those of a slave to a master, and who are not at liberty to decide on their own course of action, are, due to these conditions, in a situation in which they perform work for which they have not offered themselves of their own free will and which could not arise under a freely concluded contract of employment. The Committee notes that forced labour is prohibited by the Labour Code, but that the Code only applies to relations between employers and workers. The Committee requests the Government to take measures to extend the prohibition on any form of forced labour to work relationships such as may have persisted from historic times. For example, measures could be taken to extend the prohibition of forced labour contained in section 3 of the Labour Code to *all* forms of work relationships, even where they are not covered by a contract. It would also be possible to provide explicitly that, subject to the exceptions admitted by the Convention, *any* situation in which individuals provide work or a service for which they have not offered themselves of their own free will is illegal, may be brought before a civil court and is punishable as a penal offence, in accordance with *Article 25* of the Convention. The Committee requests the Government to provide information in its next report on the measures envisaged to give effect to the Convention on this point.

4. Following the adoption of Act No. 71059 of 25 February 1971 issuing rules to organize civil protection, which limits the powers to requisition labour to specific exceptional circumstances, corresponding to the definition of cases of emergency set out in *Article 2(d)* of the Convention, the Committee requested the Government to take measures to repeal the Ordinance of 1962 (which confers very wide powers on local leaders to requisition labour). The Committee noted in a recent comment the Government's statement that the above text had not yet been amended. The Committee concludes that the Ordinance is still in force: for reasons of legal security and in order to ensure the observance of the Convention, it requests the Government to take steps to explicitly repeal the above text in the near future and to provide information in its next report on the measures adopted in this respect.

5. The Committee noted that Act No. 70-029 of 23 January 1970 provides for the possibility of requisitioning labour outside the cases of emergency admitted by the Convention. Under sections 1 and 2 of the above Act, various categories of individuals may be required to exercise their functions when circumstances so require, particularly to ensure the functioning of a service that is considered to be essential to meet a need of the country or the population. The Committee requests the Government to take measures to limit recourse to the powers of requisitioning set out in the Act to cases of emergency, as defined in *Article 2, paragraph 2(d)*, of the Convention. The Committee requests the Government to indicate the measures which have been taken to amend this Act in order to bring the legislation fully into conformity with the Convention on this point.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Myanmar (ratification: 1955)

1. The Committee notes that the Government has not supplied a report on the application of the Convention. Following the recommendations of the Commission of Inquiry established to examine its observance of the forced labour Convention, the Committee notes the information presented by the Government in two letters of 12 and 18 May 1999 to the Director-General of the ILO, and the report dated 21 May 1999 of the Director-General to the members of the Governing Body on measures taken by the Government of Myanmar; the Memorandum dated 7 June 1999 of the Government of Myanmar on said report of the Director-General; and the information presented by the Government in June 1999 to the Conference Committee on the Application of Standards and the discussion which took place in that Committee. The Committee also notes the observations made by the International Confederation of Free Trade Unions (ICFTU) in a communication dated 19 October 1999, entitled "Failure by the Government to implement the recommendations of the Commission of Inquiry established under article 26 of the ILO Constitution to examine the complaint concerning observance by Burma of the Forced Labour Convention, 1930 (No. 29)". These observations were transmitted to the Government for any comments which it might deem useful, but no such comments have so far been received.

2. In its previous observation, the Committee recalled that a complaint under article 26 of the Constitution was submitted in 1996, alleging failure by the Government of Myanmar to observe the present Convention, and that a Commission of Inquiry was established to examine the complaint. The Committee noted the conclusions and recommendations of the Commission of Inquiry, which confirmed and expanded its own previous conclusions as to the Government's failure to comply with this fundamental Convention, the findings of the Conference Committee on the Application of Standards, as well as the findings of the Governing Body when it earlier examined a representation on the same subject. It noted further the Government's expression of willingness to implement the recommendations contained in the report of the Commission of Inquiry. The Committee expressed the firm hope that the Government would very shortly be in a position to indicate that it had complied fully with the Convention.

3. Information available on the observance of the Convention by the Government of Myanmar will be set out in three parts, dealing with: (i) the amendment of legislation; (ii) any measures taken by the Government to stop the exaction in practice of forced or compulsory labour and information available on actual practice; (iii) the enforcement of penalties which may be imposed under the Penal Code for the exaction of forced or compulsory labour.

I. Amendment of legislation

4. In paragraph 470 of its report, the Commission of Inquiry noted:

> ... that section 11(d), read together with section 8(1)(g), (n) and (o) of the Village Act, as well as section 9(b) of the Towns Act provide for the exaction of work or services from any person residing in a village tract or in a town ward, that is, work or services for which the said person has not offered himself or herself voluntarily, and that failure to comply with a requisition made under section 11(d) of the Village Act or section 9(b) of the Towns Act is punishable with penal sanctions under section 12 of the Village Act or section 9(a) of the Towns Act. Thus, these Acts provide for the exaction of "forced or compulsory labour" within the definition of Article 2(1) of the Convention.

The Commission further noted that the wide powers to requisition labour and services under these provisions do not come under any of the exceptions listed in Article 2, paragraph 2, of the Convention and are entirely incompatible with the Convention. Recalling that the amendment of these provisions had been promised by the Government for over 30 years and again announced in the Government's observations on the complaint, the Commission urged the Government to take the necessary steps to ensure that the Village Act and the Towns Act be brought into line with the Convention without further delay, and at the very latest by 1 May 1999 (paragraph 539(a) of the Commission's report).

5. All information available indicates that, by the end of November 1999, neither the Village Act nor the Towns Act had been amended, nor has any draft law proposed or under consideration for that purpose been brought to the knowledge of the Committee.

6. However, an "Order Directing Not to Exercise Powers Under Certain Provisions of the Town Act, 1907 and the Village Act, 1907" was issued by the Government on 14 May 1999, which will be considered in paragraphs 8 et seq. below.

II. Measures to stop the exaction in practice of forced or compulsory labour and information available on actual practice

A. Measures to stop the exaction in practice of forced or compulsory labour

7. In paragraph 539(b) of its recommendations of July 1998, the Commission of Inquiry indicated that:

> ... besides amending the legislation, concrete action needs to be taken immediately for each and every of the many fields of forced labour examined in Chapters 12 and 13 [of the Commission's report] to stop the present practice. This must not be done by secret directives, which are against the rule of law and have been ineffective, but through public acts of the Executive promulgated and made known to all levels of the military and to the whole population. Also, action must not be limited to the issue of wage payment; it must ensure that nobody is compelled to work against his or her will. Nonetheless, the budgeting of adequate means to hire free wage labour for the public activities which are today based on forced and unpaid labour is also required ...

8. While the Commission indicated that action needed to be taken immediately, it appears from the information supplied by both the Government of Myanmar and other sources, that the concrete measures called for by the Commission of Inquiry had not been taken by mid-May 1999. However, in its letter of 18 May 1999, the Government indicated that an Order was issued by the Ministry of Home Affairs dated 14 May 1999 directing the relevant authorities not to exercise the powers conferred on them under section 7(1), (l) and (m), and section 9 and 9A of the Towns Act and section 8(1), (g), (n) and (o), section 11(d) and section 12 of the Village Act. This indication does not correspond to the content of Order No. 1/99 issued on 14 May 1999, which reserves the exercise of powers under the relevant provisions of the Village Act, 1908 (erroneously dated 1907 in the published Order), and the Towns Act, 1907, in several ways, as pointed out in paragraphs 48 et seq. of the Director-General's report of 21 May 1999.

9. In the first place, under section 5 of the Order, restrictions to exercise powers relating to requisition for personal service under the Acts are to be effective only "until and unless any further directive is issued".

10. Secondly, the Order makes two exceptions under section 5(a) and (b), the language of which corresponds in part to that of Convention No. 29. Exception (a) reproduces the essential wording of the exception from the scope of the Convention made in its *Article 2(2)(d)* for emergencies. But exception (b) provides for "requisition for personal service in work or service which is of important direct interest for the community and general public and is of present or imminent necessity, and for which it has been impossible to obtain voluntary labour by offer of usual rates of wages and which will not lay too heavy a burden upon the present population". This provision is incompatible with the requirements of the Convention for several reasons.

11. While the wording of exception (b) reflects part of *Article 10 of the Convention*, it does not observe the conditions laid down in paragraph 2(d) and (e) thereof "that the work or service will not entail the removal of the workers from their place of habitual residence" and "that the execution of the work or the rendering of the service will be directed in accordance with the exigencies of religion, social life and agriculture".

12. More importantly, it is indicated in *paragraph 1 of Article 10* of the Convention that forced or compulsory labour of the kind envisaged under this Article "shall be progressively abolished". As noted by the Commission of Inquiry in paragraph 472 of its report, *Article 10* is part of a series of provisions containing conditions and guarantees "to restrict and regulate recourse to compulsory labour pending its suppression", that is, during the "transitional period" provided for in *Article 1(2)* of the Convention. In this regard, the Committee recalls its earlier finding that since the Convention, adopted in 1930, calls for the suppression of forced labour within the shortest possible period, to invoke at the current time (69 years after its adoption) the notion that certain forms of forced or compulsory labour comply with one of the requirements of this set of provisions, is to disregard the transitional function of these provisions and contradict the spirit of the Convention. In the view of the Committee, use of a form of forced or compulsory labour falling within the scope of the Convention as defined in *Article 2* may no longer be justified by invoking observance of the provisions of *Article 1, paragraph 2*, and *Articles 4 to 24*, although the absolute prohibitions contained in these provisions remain binding upon the States having ratified the Convention. The Commission of Inquiry in its report shared this view, having regard also to the status of the abolition of forced or compulsory labour in general international law as a peremptory norm from which no derogation is permitted.

13. Moreover, in paragraph 472 of its findings as to compliance with the Convention, the Commission of Inquiry noted that:

> ... in the present case, the undertaking under *Article 1(1)* of the Convention to suppress the use of forced or compulsory labour in all its forms within the shortest possible period precludes the Government from having recourse to legislation that it had over many years declared obsolete and not applied.

14. In providing for the exercise of powers to impose compulsory labour under an exception patterned after *Article 10, paragraph 2(a) to (c)*, of the Convention, the Order of 14 May 1999 observes neither the conditions laid down in paragraph 2(d) and (e) of

Article 10 itself nor the transitional character of that provision; *a fortiori*, it fails to ensure, as called for by the Commission of Inquiry in its recommendations under paragraph 539(b), "that in actual practice, no more forced or compulsory labour be imposed by the authorities, in particular the military".

15. In its memorandum of 7 June 1999, the Government stated that Order No. 1/99 "specifically orders ... that any and all unpaid or compulsory labour be terminated henceforth". In fact, the Order does not refer to "any and all unpaid or compulsory labour", but only to the exercise of powers under the Village Act and the Towns Act. The Commission of Inquiry pointed out in paragraph 539(b) of its report that in national practice "the powers to impose compulsory labour appear to be taken for granted, without any reference to the Village Act or the Towns Act". This is confirmed by information available on actual practice followed by military authorities since the publication of the report of the Commission of Inquiry (see Part B below), including orders for the contribution of labour issued both before and after 14 May 1999 without ever referring to the Village Act or the Towns Act or any other legal basis.

16. In conclusion, the concrete measures called for by the Commission of Inquiry "to ensure that nobody is compelled to work against his or her will" have not yet been taken.

B. *Information available on actual practice*

(a) *August 1998 to mid-May 1999*

17. In his report dated 21 May 1999 to the members of the Governing Body, the Director-General indicated that all information on actual practice that was received (from workers' and employers' organizations, intergovernmental organizations and governments of member States of the ILO) in reply to his request, referred to continued widespread use of forced labour by the authorities, in particular by the military.

18. There is an abundance of information of concrete instances of recourse to forced labour between August 1998 and April 1999, including a great number of written, official orders from either the army or the representatives of the administration demanding that village heads provide villagers to perform forced labour. Like the earlier orders, those issued after July 1998 never refer to any legal basis for the authority exercised.

19. Forced labour has continued to be imposed for portering, military camp work and other work in support of the military, work on agricultural and other production projects undertaken by the military, the construction and maintenance of roads, railways and bridges, and other infrastructure work ranging from digging canals and building dykes to building pagodas. Information reflected in the Director-General's report included details of a number of cases in which forced labour is reported to have been imposed in conditions of extreme brutality, involving the destruction of villages, torture, rape, the maiming and killing of exhausted, sick or wounded porters and (in one case) of a non-cooperative village head, and the use of civilians, including women and children, as minesweepers and human shields. More generally, the conditions in which forced labour is imposed show utter disregard for the dignity, health and basic needs of the victims.

(b) The Government's comments of 7 June 1999

20. In its memorandum dated 7 June 1999, the Government states that the Director-General's report of 21 May:

> … is full of unfounded and biased charges deliberately levelled at Myanmar and the Myanmar Government.
>
> The alleged facts in this report are manifestly false accusations concocted with evil intent to bring about the destruction of Myanmar by Myanmar expatriate organizations abroad and renegade groups that oppose all measures undertaken by the Myanmar Government. They are also based on blatantly false accusations made verbally, in writing and in the form of announcements by the National League for Democracy (NLD) …
>
> At present the Government is implementing construction projects with systematic planning and proper budget appropriations. Moreover most of the work being done on these projects is through the use of mechanized implements and machinery. In any project where human labour has to be unavoidably employed, there is a budget allotment for payment of wages to the workers. Any worker so employed is paid fair wages and there is not a single instance or a shred of evidence that forced labour is being used in these projects.
>
> Work on the highways under construction in various regions, including the union highway in the Shan State, and new railroads being laid, are being done by servicemen of the armed forces. There is not a single civilian working on them.
>
> Any jobs in which the people are involved are confined to the digging of small irrigation ditches to convey water to their own private cultivation plots. The larger state projects for the building of irrigation canals and dams do not use forced or conscripted labour of civilians. As stated, if people are at work at all, they are working in their own interest and according to their own plans and schedules on their privately owned plots of land.
>
> State construction projects employ only military servicemen. So the accusation that the Government is using forced labour on these projects is baseless and flagrantly false. Since only members of the armed forces are employed in the construction of rail and motor roads, to say that forced labour is being used is utterly meaningless.
>
> Other ongoing projects such as the reclamation of vacant and fallow lands and the construction of residential housing and hotels are all ventures by private entrepreneurs who have made capital investments. The use of forced labour in such cases is totally out of the question. In fact when incidents arise over labour grievances, the Government stands firmly on the side of the workers in settling such disputes.
>
> Concerning the charge that the army conscripts porters in its military operations, it could be said that this was the practice in former times when the insurgencies were rampant. But the fact remains that these porters were always paid and the defence budget always had an allotment for payment of their wages. These porters enjoyed the same rights as a soldier. He was given the same rations and paid the same wages. Moreover, a porter, if wounded, obtained equal compensation with a serving soldier and he was entitled to the same hardship allowances. But this issue of military porters is no longer relevant and has become a non-issue since military operations are no longer an urgent necessity.

21. The Committee takes due note that the Government in its statement denies what has been established both by the Commission of Inquiry's findings of July 1998 and by a wealth of concurring information for the period August 1998 to April 1999 supplied by a variety of sources, as well as copies of orders from the army itself or representatives of the administration, as reflected in the Director-General's report of 21 May 1999. The Committee further notes that the assertions quoted above from the

Government's memorandum of 7 June 1999 are contradicted inter alia by copies of military orders issued at about the same time that have been submitted by the ICFTU.

(c) The practice since mid-May 1999

22. In its observations dated 19 October 1999, the ICFTU indicates that over one year after the publication of the report of the Commission of Inquiry, and contrary to its repeated public commitments, the Government has still not desisted from the large-scale and systematic use of forced labour, which has continued and continues to be imposed on the civilian population, as evidenced by a set of recent orders issued by the military and/or bodies under its direct control.

23. As demonstrated by these orders, army officers have continued, after 14 May 1999, to demand that village heads provide labourers for cultivating food for the army, for road work, for military portering, as well as to supply identified army camps with a steady, rotating supply of forced labourers used as servants, messengers, sentries, builders and for a variety of other duties. The ICFTU stresses that such labourers are not allowed, under threat of being shot at, to leave army premises until their replacement has arrived and that repeated failure to comply with the orders can result in the arrest and torture of village elders.

24. The ICFTU has also submitted a report pointing at the use of forced labour in August 1999 for repair and maintenance of the Ye-Tavoy railway road, and a study of the 1999 report of the United Nations Special Rapporteur on Myanmar, which identifies direct financial profit for the army as being at times the sole purpose of forced labour. In this connection, the ICFTU recalls, from the military orders submitted, the forced conscription, by an Order of 12 June 1999, of persons with cattle and ploughs to work on land controlled by a battalion commander in the Kawkareik region as an example confirming the Special Rapporteur's analysis of the exploitation of farmers in the context of land confiscation.

25. While the Government has not commented on the observations made by the ICFTU dated 19 October, the Committee notes that, as pointed out before by the ICFTU in relation to an earlier set of military orders, the orders submitted are quasi-identical in style and content to the hundreds of forced labour orders which the Commission of Inquiry examined and found to be authentic in the course of its investigation.

26. In conclusion, there is no evidence that actual practice has changed since the Commission of Inquiry presented its report; on the contrary the exaction of forced or compulsory labour by the authorities has continued and is well documented.

III. Enforcement

27. In paragraph 539(c) of its recommendations the Commission of Inquiry urged the Government to take the necessary steps to ensure:

> ... that the penalties which may be imposed under section 374 of the Penal Code for the exaction of forced labour or compulsory labour be strictly enforced, in conformity with Article 25 of the Convention. This requires thorough investigation, prosecution and adequate punishment of those found guilty.

28. In its memorandum of 7 June 1999, the Government draws attention to paragraph 6 of Order 1/99 of 14 May 1999 which reads: "any person who fails to abide by this Order shall have action taken against him under existing laws". This, according

to the Government, places "beyond all reasonable doubt that offenders will be punished under section 374 of the Penal Code".

29. The Committee notes that section 6 of Order 1/99 refers neither to the exaction of forced labour nor to punishment under section 374 of the Penal Code, but specifically to failure to abide by the Order and to action "under existing laws". The Committee further recalls that the Order does not generally prohibit the exaction of forced or compulsory labour, but specifically restricts the use of powers under the Village and Towns Acts, while military orders calling for the supply of forced labour do not refer to any legal basis.

30. In practice, no action whatsoever under section 374 of the Penal Code has so far been brought to the knowledge of the Committee.

31. It is relevant to recall in this connection that the continued exaction of forced or compulsory labour by the authorities was flatly denied by the Government in its memorandum of 7 June 1999, echoing the similar denial made by Lt. General Khin Nyunt in his address to the ASEAN Labour Ministers Meeting on 14 May 1999, where he referred to "misconception and misunderstanding of the situation and the mentality of our people" who "have voluntarily contributed labour" for "immediate material benefit" and "merit for future life cycles"; then again, "to dispel these wrong impressions", the Government had "issued instructions that only remunerated labour must be used in infrastructure projects", while at the same time "we are now mainly using our military personnel".

32. As pointed out before by a Governing Body Committee in 1994, by the present Committee in its subsequent observations under the Convention and by the Commission of Inquiry in concluding its recommendations under paragraph 539 of its report, the blurring of the borderline between compulsory and voluntary labour, recurrent throughout the Government's statements, is all the more likely to occur in actual recruitment by local or military officials. The power to impose compulsory labour will not cease to be taken for granted unless those used to exercising it are actually brought to face criminal responsibility.

* * *

33. The Committee deplores the continued brutal imposition of forced labour on the civilian population by military officers in conditions of apparent impunity; the failure by the Government to implement the three recommendations of the Commission of Inquiry; and persistent failure by Myanmar to observe the Forced Labour Convention, 1930 (No. 29). In its concluding observations, the Commission of Inquiry noted that the experience of the past years tended to prove that the establishment of a government freely chosen by the people and the submission of all public authorities to the rule of law were in practice indispensable prerequisites for the suppression of forced labour in Myanmar. The Committee urges the Government to implement the recommendations of the Commission of Inquiry, to halt the scourge of forced labour and to restore its credibility within the international community as a government which is prepared to comply with its international obligations.

Pakistan (ratification: 1957)

1. Further to its previous comments, the Committee notes the discussions which took place at the Conference Committee on the Application of Standards in June 1999. The Committee further notes that the International Confederation of Free Trade Unions has submitted information and comments on the application of the Convention. This communication has been sent to the Government for comments and the Committee hopes that the Government will include them in its next report.

Bonded child labour

2. The Committee recalls the serious problems of bonded child labour which have been the subject of detailed discussions in this Committee and in the Conference Committee over many years.

3. The Committee had previously noted with interest the agreement which was signed between the International Programme on the Elimination of Child Labour (IPEC) of the ILO and the Pakistan Carpet Manufacturers' and Exporters' Association (PCMEA) on 22 October 1998. The Committee notes, as the Government representative before the Conference Committee indicated, this agreement sought to create a project to phase out initially some 8,000 children involved in the carpet industry within a period of 36 months. The agreement also concludes with an overall objective of meeting the deadline in the South Asian Association for Regional Cooperation (SAARC) Male (Maldives) Declaration on Eliminating Child Labour by the end of 2010. It further contains objectives to prevent further entry of children into the industry.

4. The Committee notes that no details were provided to the Conference Committee on the progress of the implementation of this agreement, and particularly noting the short-term goal of phasing out some 8,000 children within 36 months, the Committee requests the Government to provide information on the progress and results of implementation of the agreement.

5. The Committee also notes the information provided by the Government representative to the Conference Committee of the agreement signed with the European Commission and the ILO on 21 May 1997 to raise awareness on exploitative and hazardous child and child bonded labour practices; to increase the capacity to both withdraw children from bondage and prevent them from entering into bondage; and to target the small group of child bonded labour and their families with the major overall focus on rehabilitation. The Committee notes that no details were provided to the Conference Committee on the progress of the application of that agreement and requests the Government to provide information as to the progress made to implement that agreement and the practical results achieved.

6. *Magnitude of the problem.* Further to its previous observation, the Committee again expresses its concern about the continued lack of practical action of the Government to collect reliable statistics on the numbers of bonded child labourers, a concern which was reiterated by the Conference Committee. The Committee again refers to the Child Labour Survey which was conducted with the technical assistance of IPEC which indicated that there were between 2.9 million and 3.6 million child labourers (between the ages of 5 and 14) in the country. The Committee notes the information provided by the Government representative to the Conference Committee that the IPEC

survey was considered to have included all working children including those working in bondage. The representative also indicated that the only entity apart from the Government which was able to provide a figure on the number of bonded workers was the National Human Rights Commission. The representative then proffered that the number of bonded labourers, children and adults, was between 5,000 and 7,000 and that the problem existed almost exclusively in the Province of Sindh and in some areas of the Punjab. The representative stated that there had been no survey performed along the lines of the IPEC survey and that the figures he had given were the Government's estimate based upon an independent survey and represented a realistic appraisal.

7. Whilst appreciating the difficulties associated with ascertaining precise figures on the numbers of bonded labourers because of its hidden nature and the efforts made by users to disguise it, the Committee urges the Government to provide a report which contains a statistically valid appreciation of the figures of both bonded child labour and bonded labour of adults, such report to include any relevant reports or statistics on this issue available from the National Human Rights Commission. The obtaining of realistic data is an essential component for both designing an appropriate scheme to combat the problem, as well as assessing its effectiveness.

Bonded labour generally

8. A further previously expressed concern of the Committee relates to the process of inspections, prosecutions and convictions of offenders under the Employment of Children Act, 1991, the Employment of Children Rules, 1995, the Bonded Labour System (Abolition) Act, 1992, and the Bonded Labour System (Abolition) Rules, 1995. There have been two major aspects of concern, the first as to the overall administrative arrangements, the second as to reliable statistical data relating to implementation.

9. As to the first administrative concerns, the Committee requested information on measures taken to reinforce the effectiveness of vigilance committees, and also requested information on the manner of cooperation and communication between the vigilance committees and the magistrates. These same issues were also discussed in the Conference Committee, where the Government representative indicated that the Government also shared these concerns. Indications were given by the representative of difficulties arising as a consequence of the issue of labour being subject to both provincial and federal jurisdiction, and whilst federal-level measures had been taken to cooperate with supervisory bodies, delays resulted in respect of the 106 districts and their respective vigilance committees. The Committee also notes the reinforcement given by the Conference Committee to this Committee's concerns and in particular about the process of identifying, freeing and rehabilitating bonded labourers, being the role of the magistrates. The Committee asks the Government to provide information on each of these questions raised previously and also on the overall progress being made to ensure effective implementation of the legislation.

10. As to the second matter, the Committee previously requested statistical data on the number of inspections, prosecutions and convictions of offenders. The Government representative before the Conference Committee provided certain statistical data but also indicated that some data were still in the process of being compiled, other data were not complete and that it would be provided to this Committee in the Government's next

report. The Committee accordingly awaits the provision of that information in the Government's next report.

Shariah Court

11. Regarding the pending petitions filed in the Federal Shariah Court to declare some sections of the Bonded Labour System (Abolition) Act of 1992 as *ultra vires* Islamic injunctions, the Committee notes the statement by the Government representative that the Government would defend the Act and that its application would not be affected because of the court petitions. The Committee asks the Government to send a copy of the court ruling as soon as it is issued.

Restrictions on termination of employment

12. The Committee refers to its previous observations regarding the federal and provincial Essential Services Acts which contain provisions rendering employees in government employment who terminate employment without the consent of the employer subject to penalties of imprisonment. This matter was also raised in the Conference Committee on which occasion the representative of the Government indicated that the Government was "not proud of this piece of legislation" and that it was only resorted to when situations had reached an "extreme stage". The representative also repeated information previously given to this Committee to the effect that the scope of the Act had been progressively limited to five services. The representative also informed the Conference Committee that amendment of the Act would be considered by the newly established Tripartite Commission on the Consolidation, Simplification and Rationalization of Labour Laws and that the report of this Commission would be available in due course.

13. The Committee also refers to the observation made by it on the same topic under Convention No. 105 and to the seriousness of the continuance of the legislation as it stands. The Committee trusts that the Tripartite Committee will take these matters fully into account and requests the Government to take the necessary steps as soon as possible to bring the Acts into conformity with the Convention. The Committee requests the Government to supply information on the progress towards that aim.

14. In conclusion, the Committee requests the Government to provide detailed comments on each of the matters referred to herein in the context of its previous observation and direct request, for full examination by it at its next session.

Panama (ratification: 1966)

1. With reference to its previous comments requesting the Government to ensure that seafarers have the right to terminate the labour relationship by giving reasonable notice, the Committee notes with satisfaction section 48(c) of Legislative Decree No. 8 of 26 February 1998, which regulates work at sea and on waterways and lays down other provisions. Under the said section 48(c), the engagement contract concluded per voyage, for a specific or indefinite period, shall be rescinded in cases of denunciation by the crew member provided that this does not imply waiver of rights and is done in writing in front of the labour or consular authority or, failing that, before two witnesses who are members of the vessel's crew.

2. *Article 2(2)(c) of the Convention.* In previous comments, the Committee referred to various sections of the Administrative Code, of Act No. 27 of 1927 (which supplements the Administrative Code), and of Act No. 112 of 1974, which empower various non-judicial authorities to impose administrative sentences including compulsory labour. The Committee noted with interest Act No. 21 of 22 April 1998, which repeals, inter alia, sections 878(1) and 882 of the Administrative Code which provided for sentences of labour on public works, and section 887 of the Code which laid down that persons sentenced to imprisonment who were maintained with public monies would be compelled to labour on public works.

The Committee further notes with interest the Government's statement in its report that it is thus ensured that non-judicial authorities cannot impose penalties involving compulsory labour.

Paraguay (ratification: 1967)

The Committee notes the Government's report and its annexes.

Article 1, paragraph 1, and Article 2, paragraph 1, of the Convention. 1. In its previous observations, the Committee referred to section 39 of Act No. 210 of 1970, which makes work compulsory for detainees. Section 10 of the same Act defines as detainees not only convicted persons, but also persons subject to security measures in a prison establishment. The Committee notes the information provided by the Government in its report to the effect that, under section 40 of the Penal Code with respect to labour by convicts, only persons who are convicted are obliged to work and that a new Bill regarding the prison system, amending Act No. 210 of 1970, is currently under examination.

The Committee recalls once again that under *Article 2, paragraph 2(c)*, of the Convention, work or service may only be exacted from a person as a consequence of a conviction in a court of law. Persons who are detained but have not been convicted must not be compelled to perform any type of work.

The Committee once again expresses the hope that the necessary measures will finally be taken to resolve the incompatibility which has existed for a long time between the legislation and *Article 2, paragraph 2(c)*, of the Convention and that the Government will provide information on measures adopted in this respect.

2. In its previous observation, the Committee noted the comments made by the World Confederation of Labour (WCL) in October 1997.

In those comments, the trade union organization alleged, on the basis of the information contained in the publication by Anti-Slavery International *Enslaved peoples in the 1990s*, the existence of situations of debt bondage in indigenous communities in Chaco. In many cases, the wages of indigenous workers in some of the estates in Chaco are less than half the statutory minimum wage. Consequently, the workers need to obtain basic food supplies and products of primary necessity from ranch stores on credit or at excessively high prices. At the end of the month, their debt is higher than the amount of their wages. According to these allegations, even in estates in which the highest wages are paid, the workers in practice receive no pay due to the debts they have contracted.

The WCL's comments were transmitted to the Government in November 1997 so that it could make the observations thereon which it considered appropriate. The

Committee notes that in its report, provided in November 1999, the Government states that it lacks information on the matters raised in the WCL's communication.

The Committee notes that the information referred to in the WCL's comments relate to alleged situations of debt bondage and that such practices are in widespread and serious violation of the prohibition of forced labour and the protection provided by the Convention for the freedom of workers.

The Committee requests the Government to investigate these serious allegations and to provide information on any measures which may have been taken or be envisaged to eliminate such practices and ensure compliance with the Convention.

Sierra Leone (ratification: 1961)

The Committee notes with regret that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

> In its comments made for a number of years, the Committee asked the Government to repeal or amend section 8(h) of the Chiefdom Councils Act (Cap. 61) under which compulsory cultivation may be imposed on natives. The Committee previously noted the Government's statement that the above-mentioned section is not in conformity with article 9 of the Constitution and would be held unenforceable. The Committee also noted the Government's indication that section 8(h) was not applied in practice and that information on any amendment of this section would be provided. In its report received in 1995, the Government stated that measures to change section 8(h) were evident in the new proposed Constitution.
>
> The Committee therefore trusts that measures will be taken in the near future in order to bring section 8(h) of the Chiefdom Councils Act into conformity with the Convention and the indicated practice. It asks the Government to provide information on any progress made in this regard.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Sudan (ratification: 1957)

1. The Committee recalls that this case has been discussed repeatedly over the years in its own observations, and by the Conference Committee on the Application of Standards which adopted a special paragraph on it in 1998. The Committee has examined allegations of abductions and trafficking of women and children, of forcible induction of children into rebel armed forces, and of children being forced to transport ammunition and supplies. In its previous comments, the Committee noted the efforts being made by the Government to investigate and to resolve the continuing allegations of slavery and slavery-like practices, particularly in the south of the country where an armed conflict is under way. The Committee asked the Government to provide various materials concerning the investigations being carried out, and details of the concrete measures taken, including cases brought to justice, and numbers of convictions, penalties and remedial measures. It notes the information contained in the Government's report and its annexes, but reiterates its previous request for detailed information on the practical measures taken and their effects.

2. The Committee also notes the comments received from the International Confederation of Free Trade Unions (ICFTU) on 28 September 1999, which were

communicated to the Government on 6 October 1999 for any comments it might wish to make. This communication included substantial information compiled by Anti-Slavery International and by Christian Solidarity Worldwide which noted the positive measures outlined below, but expressed concern at continuing reports of abductions and slavery, and provided detailed information on a number of individual cases. The Government replied on 25 November 1999, in the same terms as its earlier report received on 8 October 1999. Those reports address some of the questions raised by the ICFTU in its communication.

3. The Committee notes that the UN Special Rapporteur on the Situation of Human Rights in Sudan reported to the Commission on Human Rights following a visit to the country in February 1999, that:

> raids by the militia are a major source of violations of human rights. In Bahr-al-Ghazal, the Murahaleen militia (or the Mujahideen) often accompany the state-owned military supply train escorted by the Popular Defence Forces (PDF) ... According to consistent and reliable sources, the Murahaleen ... systematically raid villages, torch houses, steal cattle, kill men and capture women and children as war booty. Often, abducted women and children are taken up to the north and remain in the possession of the captors or other persons. The PDF are also said to take part in the raids. ... They follow an age-old pattern of rivalry and confrontation between the local Dinka and northern Arab nomads (belonging to the Baggara and Misseriya peoples) over grazing land and water. During fighting, both sides traditionally captured prisoners whom they reduced to slavery unless or until they were redeemed through ransom. Since the beginning of the civil war, these dying practices have been revived, allegedly with the – at least tacit – consent of the Sudanese authorities. ... (It is) difficult to establish whether regular troops also take part in the raids. According to certain accounts, the perpetrators were said to be wearing uniforms; whereas Muraheleen and other militia usually wear plain clothes. Although an auxiliary force, the PDF are directly under the control of the Sudanese authorities. (UN document E/CN.4/1999/38/Add.1, 17 May 1999, paras. 61-63).

4. Thus, the findings of the McNair report cited previously by the Government (and again communicated with the present report) that the abductions being practised by both sides are a traditional form of warfare and do not constitute slavery, must be read in the light of the findings of the UN Special Rapporteur to the effect that there is involvement in these activities of allies, or even troops, of the Government; and that if ransom is not paid these hostages continue as forced labourers or slaves.

5. In its reports, the Government condemns slavery in all its forms, stating that it is unconstitutional, illegal according to national laws and the international instruments ratified by Sudan, and morally unacceptable. The Government states that it accepts the terms of resolution 1999/15 of the United Nations Commission on Human Rights (April 1999) urging it to facilitate the safe return to their families of women and children abducted in tribal fights, and to obtain the eradication of that practice which, the Government states, "has been going on in some parts of south-west Sudan since time immemorial".

6. The Committee notes with interest that in May 1999 the Government established the Committee for the Eradication of Abduction of Women and Children (CEAWC) "with full legal powers and mandate". The Government reports that CEAWC has been working closely with the international community, and in May 1999 it held a workshop with the representatives of a number of embassies and international

organizations. A second workshop was held in July 1999, with UNICEF support, to formulate a comprehensive workplan.

7. The Government also indicates that measures have begun to be put into place to implement CEAWC's mandate, including measures to compile a detailed registry of cases of abduction. Concrete results were expected by mid-September 1999 following a field mission which was expected to identify, trace and reunify 200 abducted women and children and to identify another 300 within two months. The Committee notes the Government's stated goal of completely eradicating the abduction of women and children and addressing the root causes of the problem.

8. The Committee welcomes these positive measures, and encourages the Government to pursue them actively. It hopes that the Government will be able to indicate in its next report the concrete results obtained, including the number of persons reported to have been abducted, the number freed, and any penalties which may have been imposed in application of *Article 25 of the Convention.*

9. The Committee also notes that there has been no direct reply by the Government to some of the points raised by the ICFTU (see paragraph 2 above) and in its own previous comments. The Committee requests a response to those comments.

10. The Committee hopes the Government will continue to provide detailed information in its next report on the measures it is taking to eliminate these practices, with priority to situations in which they may be carried out with the participation of government troops and/or its allied forces. Any situation in which there is forced or compulsory labour is contrary to the Convention, though the measures necessary to eliminate will vary depending on the root causes. Clearly the situation is exacerbated by the continuing civil conflict, and the Committee notes with interest the measures being taken to reach a settlement. The Committee therefore reiterates its deep concern about this situation, while welcoming the Government's renewed commitment to resolving it.

Swaziland (ratification: 1978)

Articles 1(1) and 2(1) and (2)(b), (d) and (e) of the Convention. In its earlier comments the Committee referred to the Swaziland Administration Act, No. 79 of 1950, section 10(1)(p), (q) and (u) of which provided for orders requiring compulsory cultivation, anti-soil erosion work and other works of construction and maintenance. It expressed the hope that the necessary measures would be taken to amend these provisions in order to ensure observance of the Convention.

The Committee notes the observations on the application of the Convention made in June 1999 by the Swaziland Federation of Trade Unions (SFTU). According to the SFTU's allegations, the new Swazi Administration Order of 1998, which repealed the Swaziland Administrations Act of 1950, legalizes forced labour, slavery and exploitation with gross impunity and gives the chiefs the right to penalize non-compliance with the Order with fines, imprisonment, demolition without compensation, etc. The SFTU refers, inter alia, to sections 6, 27 and 28 of the 1998 Order, which provide for the duty of Swazis to assist the Ngwenyama and chiefs; the duty to attend before Ngwenyama, chiefs and government officers when so directed, under the threat of punishment; and the duty to obey orders requiring participation in compulsory works. The Committee notes that these observations were transmitted to the Government in June 1999, for such comments as might be judged appropriate, and that no comments have been received from the Government so far.

The Committee notes that the combination of sections 6, 21, 28(1)(p), (q) and (u) and 34 of the new Swazi Administration Order (No. 6 of 1998) provides for orders requiring compulsory cultivation, anti-soil erosion works and the making, maintenance and protection of roads with severe penalties for non-compliance. With reference to the comments it has been making for a number of years concerning Swaziland Administration Act, No. 79 of 1950, which contained similar provisions, the Committee observes that provisions of this kind are in serious breach of the Convention. They are not restricted in application to the circumstances contemplated in *Article 2(2)*, such as cases of emergency (fire, flood, famine, earthquake, violent epidemic or epizootic diseases, etc.) or minor communal services. The Committee also refers to paragraphs 36, 37 and 74 to 83 of its 1979 General Survey on the abolition of forced labour, in which it pointed out that, in order to be compatible with the Convention, such provisions should be limited in scope to cases of a calamity or threatened calamity endangering the existence or well-being of the population, or (in case of compulsory cultivation) to circumstances of famine or a deficiency of food supplies and always on the condition that the food or produce shall remain the property of the individuals or the community producing it, or (to fall under the exemption made for minor communal services) to cases where work is limited to minor maintenance and its duration is substantially reduced.

The Committee requests the Government to take the necessary measures to amend section 28(1)(p), (q) and (u) of the Swazi Administration Order, 1998 so as to ensure compliance with the Convention. It asks the Government to indicate the progress made in that respect and, in the meantime, to supply full information on the manner in which these provisions are being applied in practice.

United Republic of Tanzania (ratification: 1962)

The Committee has noted the Government's report.

Articles 1(1) and 2(1) and (2) of the Convention. For a number of years the Committee has been commenting on serious discrepancies between national law and practice and the provisions of the Convention.

The Committee referred in this connection to the following provisions:

- article 25, paragraph 1, of the 1985 Constitution, which provides for a general obligation to work; paragraph 2 of the same article which provides that there will be no forced labour; article 25, paragraph 3(d), of the Constitution, which provides that no work shall be considered as forced labour if it is relief work that is part of compulsory nation-building initiatives, in accordance with the law, or national efforts in harnessing the contribution of everyone in the work of developing the society and national economy and ensuring success in development;
- the Local Government (District Authorities) Act, 1982, the Employment Ordinance, 1952, as amended, the Human Resources Deployment Act, 1983, the Penal Code, the Resettlement of Offenders Act, 1969, the Ward Development Committees Act, 1969, and the Local Finances Act, 1982, under which compulsory

labour may be imposed, inter alia, by administrative authority, on the basis of a general obligation to work and for purposes of economic development;

- several by-laws adopted between 1988 and 1992 under section 148 of the Local Government (District Authorities) Act, 1982, entitled "self-help and community development", "nation-building", and "enforcement of human resources deployment", which provide for an obligation to work.

The Committee expressed its concern at the institutionalized and systematic compulsion to work established in law at all levels, in the National Constitution, Acts of Parliament and District by-laws, in contradiction with Convention No. 29 and *Article 1(b)* of Convention No. 105, also ratified by the United Republic of Tanzania, which prohibits the use of compulsory labour for development purposes.

The Committee previously noted the Government's indication that the Employment Ordinance No. 366 of 1952 was being revised. The Government states in its latest report received in May 1999 that the process of revision has been very slow due to technical reasons, but that a draft Bill has been tabled to the Cabinet. It also indicates that efforts to amend the Penal Code, the Resettlement of Offenders Act, 1969, the Ward Development Committees Act, 1969, and the Local Finances Act, 1982, are under way in the Law Reform Commission.

The Committee notes the Government's statement concerning practical difficulties encountered in the application of the Convention, which in most cases are due to application of by-laws and directives issued by local authorities imposing compulsory labour on the population.

As regards the Human Resources Deployment Act of 1983, the Government indicates that it has been repealed and replaced with the National Employment Promotion Service Act of 1999. The Committee requests the Government to supply a copy of a repealing text, as well as a copy of the new Act.

The Committee trusts that the necessary measures will be taken in the very near future to repeal or amend the provisions contrary to the Convention. It also requests the Government to provide a copy of the Employment Ordinance, as soon as it is amended.

The Committee is addressing a request on certain other points directly to the Government.

United Kingdom (ratification: 1931)

The Committee has noted the information supplied by the Government in 1998 and 1999 in response to its earlier comments, and an observation received on 15 November 1999 from the Trades Union Congress (TUC) concerning work by prisoners for the benefit of private companies, a copy of which was sent to the Government for any comments it might wish to make on the matters raised therein.

I. Domestic workers from abroad

1. The Committee notes with interest the Government's indication in its latest report that following concerns at reports of abuse of domestic workers accompanying their employers to the United Kingdom, conditions under which they are admitted have been fully reviewed with the assistance of Kalayaan, the organization which represents overseas domestic workers. A number of significant changes have been agreed, which

came into effect on 23 July 1998. Once in the United Kingdom a domestic worker will be able to make an application to change employer, provided that the employment will continue to exceed basic duties set out in the International Standard Classification of Occupations. It has also been agreed that domestic workers admitted under the previous concession who have left their original employer because of abuse or exploitation and thus find themselves in an irregular situation, may apply to regularize their stay.

2. Noting also that serious problems remain with regard to the effective implementation of the new rules as set out in the TUC observation, the Committee trusts that these problems will be addressed in the discussions that were to take place in November between the Government and Kalayaan, and that the Government will comment on the TUC's observations and supply information on further measures taken.

II. Prisoners working for private companies

3. In summary, in its previous comments, the Committee recalled that it is only when prisoners perform work in conditions approximating a free employment relationship that such work for private companies can be held compatible with the explicit prohibition in *Article 2(2)(c)*. This necessarily requires the voluntary consent of the person concerned, and there must be further guarantees and safeguards covering the essential elements of a labour relation, including payment of normal wages and social security, etc., to remove the employment from the scope of *Article 2(2)(c)* (which unconditionally prohibits that persons who are under an obligation to perform prison labour be hired to or placed at the disposal of private companies). The Committee accordingly expressed the hope that the necessary measures would be taken as regards both national law and practice to ensure that any work by prisoners for private companies be performed under conditions which are freely consented to by the prisoner; ensuring that consent is not given in a situation of constraint by virtue of being a convicted prisoner; the existence of a labour contract between the prisoner and the private company employing him or her; and that, whatever the work, it would be performed under normal conditions regarding wage levels, social security and safety and health. With this background the Committee addresses the following matters.

A. "Outside employment"

4. The Committee notes that under rule 9(2) and (3)(b) of the Prison Rules 1999, a prisoner may be released "for any period or periods and subject to any conditions", inter alia, "to engage in employment". It notes with interest the Government's indication in its 1999 report that in practice there are a number of prisons which allow the release, on a daily basis, of prisoners in the last six months of their sentence to enable them to work. These prisoners are normally employed within a free labour relationship as a part of their rehabilitation and resettlement back into society. Prisoners who do work outside are subject to normal requirements in respect of income tax and national insurance contributions from the wages they receive for their work. While prisoners thus released to work outside are held to be working "in pursuance of prison rules" and therefore excluded from the national minimum wage by virtue of section 45 of the National Minimum Wage Act 1998, it is nevertheless prison service policy that such arrangements must not give an unfair competitive advantage to those who employ prisoners, and employers must not treat prisoners less favourably than other workers in

comparable employment. It is expected, therefore, that prisoners who work for outside employers, doing a normal job, will be paid the appropriate rate for the job. Where prisoners work less than the normal working week, it is acceptable for them to be paid pro rata.

5. The Committee considers that prisoners thus "employed within a free labour relationship" are not "working in pursuance of prison rules" but rather (in the terms of rule 9 of the Prison Rules 1999) "released" in pursuance of prison rules "to engage in employment" in the free labour market. The Committee hopes that prisoners who thus work for outside employers, doing a normal job within a free labour relationship will benefit from general labour legislation, and that in view also of prison service policy regarding the payment of normal wages, the anomaly of their exclusion from the National Minimum Wage Act 1998 will be resolved. The Committee looks forward to learning of measures taken to this end.

B. Contracted-out prisons and prison industries

6. The Committee notes with regret from the Government's reports that the necessary measures to ensure that any work by prisoners for private companies be performed under the conditions of a freely consented upon employment relationship – as recalled in paragraph 3 above and largely implemented in "outside employment" of prisoners with private employers – have not likewise been taken with regard to contracted-out prisons and prison industries.

7. In the view of the Government, under none of the existing arrangements for the provision and management of prison work and training programmes is the prisoner being "hired to or placed at the disposal of private individuals, companies or associations". The public authorities remain responsible for and in control of all prisoners at all times. The Government emphasizes that this applies to *all* prisons in the United Kingdom, whether they are managed directly by HM Prison Service or through a contractor. The Government also points out that at present only seven prisons out of a total of 138 are contractually managed.

8. The Committee recalls that under *Article 2, paragraph 2(c), of the Convention*, work or service exacted from any person as a consequence of a conviction in a court of law is not exempted from the scope of the Convention unless two conditions are met, namely "that the said work or service is carried out under the supervision and control of a public authority and that the said person is not hired to or placed at the disposal of private individuals, companies or associations". Thus, the fact that the prisoner remains at all times under the supervision and control of a public authority does not dispense with the requirement to fulfil the second condition, namely, that the person is not "hired to or placed at the disposal of private individuals, companies or associations".

9. On this latter issue, the Government stresses in its 1998 report that the contracts between the Prison Service and the company managing a contracted-out prison or a prison workshop (or other employment activities) do not concern the provision of prisoners to work. There is no contractual obligation on the Prison Service to provide a labour force to private sector contractors running a prison/workshop. Nor is it the case that the Prison Service is hiring out labour as there is no contractual obligation to provide a labour force. Rather, the contractor is obliged simply to provide facilities so that prisoners may work as part of the prison's rehabilitative regime and in accordance

with the Prison Rules. Contractors cannot require prisoners to undertake any work outside the terms of the contract or outside the terms of prison rules and policies.

10. The Committee takes due note of these indications. It recalls that prison labour is compulsory for convicted prisoners under the prison rules; thus, where prison workshops or a whole prison are contracted out to a private company, they are contracted out with a captive workforce, and there is no need for a contractual clause regarding the provision of labour since the State ensures through statutory instruments that the captive workforce must, in the terms of the Government's report, "cooperate with the regime". To be made compatible with the Convention, the contracting out of prisons or prison workshops thus requires the introduction of the conditions recalled in paragraph 3 above.

11. The Committee also notes the Government's indications in its 1998 report that arrangements for private sector management of prison workshops have "significant practical benefits by increasing the range and quality of work and training opportunities available to prisoners. Where higher wages are available to prisoners, this enables them to begin saving in preparation for release".

12. As to the range and quality of work and training opportunities, the Committee notes, from the Government's 1999 report, that under present arrangements, most of the work undertaken in prisons involving external contractors "is labour-intensive and if done externally could not be done economically. In the absence of prisons taking on the work it is likely that the processes would be automated or taken abroad".

13. More importantly, as regards "higher wages available to prisoners", the Committee notes the indication by the TUC in its observations that at Blakenhurst, a prison where 150 prisoners were engaged in work for outside companies and 300 worked for UK Detention Services, the private company which runs the prison, prisoners reported that either category were paid at between £10 and £15 a week; even the highest earnings were below the lower earnings level for social security contributions and below the minimum wage of £3.60 per hour for adult workers. The Committee awaits the Government's comments on these figures.

14. In concluding this observation, the Committee notes the TUC's view that the Government should redress the work regime in contracted-out prisons so as to comply with the criteria of a free labour relationship, and that pre-release schemes should be encouraged where they provide for social and labour market reintegration through outside work in which the fundamental rights at work of prisoners are protected – including through the establishment of a direct employment relationship between the prisoner and the employer. The Committee hopes that the necessary measures will be taken to organize the work in contracted-out workshops and prisons in a manner compatible with the Convention, and that the Government will supply full information on the steps taken to this end in its next report.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Algeria, Antigua and Barbuda, Belize, Burkina Faso, Burundi, Cameroon, Cape Verde, China (Hong Kong Special Administrative Region), Comoros, Congo, Costa Rica, Democratic Republic of the Congo, Djibouti, Dominica, Estonia, Fiji, Gabon, Ghana, Guatemala, Guinea, Guinea-Bissau, Haiti, Hungary, Islamic*

Republic of Iran, Ireland, Kenya, Kyrgyzstan, Liberia, Libyan Arab Jamahiriya, Madagascar, Malaysia, Mali, Mauritania, New Zealand, Nigeria, Poland, Saint Lucia, Senegal, Seychelles, Sierra Leone, Slovakia, Solomon Islands, Tajikistan, United Republic of Tanzania, Togo, Trinidad and Tobago, Uganda, United Kingdom, Zambia.

Convention No. 30: Hours of Work (Commerce and Offices), 1930

Chile (ratification: 1935)

The Committee notes the Government's latest report and the information supplied therein in response to its previous observations.

With reference to its earlier comments, the Committee recalls that it has for some years noted that section 31 of the Labour Code, which makes general allowance for extending normal working hours by permitting the parties to an employment contract to agree to work two additional hours in the day in jobs which by their nature do not harm the health of the worker, violate the Convention, which specifies that exceptions to normal hours of work may only be made in the cases provided for in *Article 7 of the Convention*. It wishes to draw the Government's attention to the fact that the limitation to hours of work determined by *Article 3* of the Convention are restricting in character, notwithstanding the permanent or temporary exceptions specified by the Convention, and that they may not be altered by contractual changes, even where these are provided for by law.

The Committee again requests the Government to take the necessary measures to bring its legislation into conformity with the Convention on this point.

Iraq (ratification: 1965)

With respect to the application of *Article 7, paragraph 3, of the Convention*, the Committee takes note of the brief details contained in the Government's report indicating that an act is being prepared to determine the limit of the number of additional hours which may be authorized and that a copy of the text will be sent to the ILO after adoption. The Committee recalls that the need to bring the national legislation into conformity with this Article of the Convention has been the subject of comments for very many years.

Morocco (ratification: 1974)

The Committee notes the information submitted by the Government in its latest report. The Government indicates that the draft revision of the Labour Code anticipates inclusion within its scope of the establishments which were excluded under the Order of 7 August 1946. It also indicates that account has been taken of the comments by the Committee in determining, in strict conformity with *Article 5, paragraph 1, of the Convention*, the circumstances allowing an increase of daily hours of work. The Committee trusts that the draft Labour Code will be adopted in the near future and that the Government will be able to indicate in its next report that the provisions of the Convention which have given rise to comments for a number of years have been satisfactorily applied. The Committee also requests the Government to supply general information, as requested in *Part V of the report form*, on the manner in which the

Convention is applied in practice and to provide, where appropriate, extracts from the reports of the inspection services and details on the nature of the contraventions reported.

Nicaragua (ratification: 1934)

With reference to its observation of 1993, the Committee notes with interest the information provided in the Government's report on the measures taken to give effect to the provisions of the Convention. In particular it notes that Act No. 185 of 30 October 1996 has brought a certain number of amendments to the Labour Code, including the fixing of a limit of three hours in the day and nine hours in the week of overtime hours (section 58), which represents real progress in the application of *Articles 7, paragraphs 2 and 3, and 8 of the Convention.* It also notes the detailed information supplied by the Government as requested in *Part V of the report form* and requests it to continue to supply such information which allow the Committee to appreciate more fully the manner in which effect is given to the provisions of the Convention in practice.

Spain (ratification: 1932)

The Committee notes the Government's report for the period ending September 1998. It also notes a communication from the General Union of Workers (UGT) alleging that the provisions of the Workers' Charter, as amended in 1995, and of the Legislative Decree respecting special working hours (No. 1561 of 21 September 1995), are contrary to the Convention. This communication has been transmitted to the Government, which has not yet provided comments thereon.

The Committee wishes to draw the Government's attention to the abuses which may arise out of the strict application of section 34 of the Workers' Charter, and particularly subsections 2 and 3. The Committee notes that normal weekly hours of work are set at 40 hours under the terms of the first subsection, but that daily hours of work must be determined by collective agreements or contracts of employment. It notes that subsection 2 provides for the possibility of having recourse, through collective agreements or enterprise agreements, to an irregular arrangement of daily working hours, calculated on average on an annual basis. These hours of work are only limited by the requirement to grant a rest period of 12 hours between working days, under the terms of subsection 3. In this respect, the Committee wishes to remind the Government that the possibility of distributing hours of work over a period longer than the week, as set out in *Article 6 of the Convention,* is limited to exceptional cases where the circumstances in which the work has to be carried on make the normal hours of work set out in *Article 3* inapplicable. These circumstances may arise in branches of activity which require an uneven distribution of working hours due to the nature of the work, for technical reasons, periodic peaks in the workload or seasonal variations. In these conditions, the Committee considers that, by permitting in a general manner possibilities for exceptions to normal hours of work, section 34, subsection 2, of the Workers' Charter is not in conformity with the provisions of *Article 6* of the Convention.

Section 34, subsection 3, of the Workers' Charter establishes the maximum daily hours of work at nine hours, but provides for the possibility of exceptions to be made by collective agreements or enterprise agreements, under the sole condition of compliance with the 12-hour rest period granted between working days. The Committee wishes to draw the Government's attention to the fact that *Article 4* of the Convention does indeed envisage the possibility of having recourse to an irregular arrangement of weekly hours of work, but only authorizes an additional two hours on top of the eight hours of work a day. In view of the above, the Committee considers that section 34, subsection 3, of the Workers' Charter is not in conformity with *Article 4* of the Convention.

The Committee also notes that section 5, subsection 1, of the Workers' Charter no longer guarantees a higher rate of pay for overtime hours. On this point, it is not in conformity with *Article 7, paragraph 4*, of the Convention, which provides that the rate of pay in the event of the temporary exceptions envisaged in paragraph 2, has to be increased by at least 25 per cent of the normal wage.

Finally, the Committee wishes to draw the Government's attention to the need to ensure that the normal hours of work and the exceptions envisaged in the Convention are strictly complied with for employees in commerce, who are covered by section 6 of the Legislative Decree respecting special working hours (No. 1561 of 21 September 1995). The Government is requested to indicate the measures taken in this respect.

The Committee trusts that the Government will take the necessary action as soon as possible to bring its legislation into conformity with the provisions of the Convention on the above points and requests it to report the progress achieved in this respect as soon as possible.

Syrian Arab Republic (ratification: 1960)

The Committee notes the Government's latest report on the application of the Convention. It notes that section 117 of the Labour Code, which was the subject of its previous comments, has still not been amended to bring it into conformity with the Convention. The Committee has been drawing the Government's attention for many years to the fact that the provisions of this section, which provide that "hours of work and pauses must be organized in such a fashion that the presence of the worker at the workplace does not exceed 11 hours a day", are liable to result in abuse and wishes to remind it once again of the need to amend these provisions so as not to require the presence of the worker at the workplace beyond the limits of normal working hours which, in accordance with *Article 3 of the Convention*, must not exceed eight in the day. In this connection, the Committee takes cognizance of a communication transmitted by the Government to the ILO in July 1999, and notes the indication that, taking account of the comments formulated by the Committee on the application of the Convention on Hours of Work (Industry), 1919 (No. 1), it has begun preparation of a new draft Legislative Decree to amend the Labour Code accordingly. The Committee requests the Government to inform the ILO on the progress achieved in this respect.

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In addition, requests regarding certain points are being addressed directly to the following States: *Bulgaria, Equatorial Guinea, Guatemala, Lebanon, Luxembourg, Saudi Arabia.*

Convention No. 32: Protection against Accidents (Dockers) (Revised), 1932

A request regarding certain points is being addressed directly to *Panama*.

Convention No. 35: Old-Age Insurance (Industry, etc.), 1933

Chile (ratification: 1935)

1. The Committee has noted the conclusions and recommendations made by the committee set up to examine the representation alleging non-observance by Chile of, inter alia, Convention No. 35, made under article 24 of the ILO Constitution by the College of Teachers of Chile, AG (document GB.273/16/4, 274th Session, March 1999).

The allegations presented in the representation by the complainant organization relate to the failure to pay the social security contributions of teachers and the consequent responsibility on the public authorities. The Government did not refute the content of its international obligations and supplied detailed information on the institutional framework and the verification and supervisory measures exercised by the authority of the State. The Government also supplied information on some corrective measures designed to settle the arrears in payment of contributions. In its conclusions, the committee set up to examine the representation considered that, although the steps taken by the Government have improved the situation to some extent, further measures are necessary in order to ensure that the relevant Conventions are fully applied in practice. In particular, it recommended that the competent services carry out their tasks and strengthen their supervisory activities and that appropriate penalties be strictly applied so as to prevent the situation of arrears in contributions from recurring in future, and urged the Government to continue to ensure that the outstanding social security arrears, the scale of which should not be underestimated, are settled in full. The said committee also urged the Government to take all the necessary measures to ensure that the social security rights of teachers are restored; to continue and strengthen the supervision of the effective payment of social security contributions by the municipalities; and to ensure the effective application of deterrent penalties in the event of non-payment of social security contributions. The Committee also requested the Government to supply, inter alia, detailed information on the number of checks carried out, in particular by the Ministry of Education, to verify payment of social security contributions by the municipalities; the number and nature of violations registered and the number and nature of the penalties imposed; the number of municipalities remaining in arrears with regard to their payment of social security contributions, and the amount of such arrears; the number of workers affected and the amount of arrears settled.

The Committee of Experts notes the information supplied by the Government in September 1999 in response to the said conclusions and recommendations as well as the information which the College of Teachers communicated in October 1999 in connection with the representation.

In its report on the measures adopted to ensure effective payment of social security contributions for teachers, the Government refers to measures such as verification and supervision of payment of social security contributions along with government action and legislative measures to settle the amount owed by certain municipalities.

In regard to the *verification and supervision of payment* of social security contributions in respect of teachers, the Government indicates that it has adopted special inspection measures to be carried out by the supervisory bodies with competence in the matter which are: (a) *the Ministry of Education*, which has been authorized to retain from subsidies the amount of the social security contributions in respect of teachers which have not been paid into the social security institutions; (b) *the Directorate of Labour*, whose inspectors are empowered to impose the fines which sanction failure to comply with the obligation entailed in declaring and paying the remuneration and income of workers. The social security contributions duly declared in the AFPs and not paid, as is the case for most of the social security arrears incurred by the municipal corporations, can be covered by judicial methods, which lie within the exclusive competence of each AFP. With respect specifically to the municipal corporations, the Directorate of Labour carries out the following types of action: (i) it publishes in the bulletin of breaches of labour and social security legislation the list, supplied by the social security institution itself, of the municipal corporations which are in arrears of payment of social security contributions; in July 1999, these arrears amounted to 2,098,712,464 pesos; (ii) it carries out inspection measures at the request of concerned individuals or institutions. Among the administrative fines imposed are fines on municipalities in respect of social security matters which amount to a total of 966,918 pesos, imposed on 23 municipalities in the country; (iii) in two consecutive years, it has conducted special verification programmes in municipal schools. The information on the programme for 1998 allowed to review the social security situation in 75 schools with a total of 2,924 workers to be revised. No violations were recorded. (c) *Administradoras de Fondos de Pensiones* (companies administering pension funds) which, according to section 19 of Legislative Decree No. 3500 of 1980, are obliged to pursue legal action designed to recover the social security contributions in arrears in respect of their members. The superintendency of companies administering pension funds has specially instructed the AFPs in regard to recovery of unpaid social security contributions by means of three circulars (Nos. 336, 347 and 551) which relate to judicial recovery, the information procedure for employers who have not paid contributions to the AFPs and the records to supervise and maintain the information up to date respectively.

In regard to the *total amount of social security arrears* owed by the municipalities, the Government indicates that there has been a considerable decrease. At 20 April 1998, the total debt amounted to 7,534,544,602 pesos and involved 38 municipalities. In July 1999, 29 municipalities still had social security arrears in an amount of 5,791.8 million pesos, distributed among the following institutions: companies administering pension funds (AFPs), 3,261.6 million pesos; health provident institutions (Isapres), 394.3 million pesos; Welfare Administration Institute (INP), 1,951 million pesos; mutual societies or workers' welfare institutions, 148.9 million pesos. Under Act No. 19609 which allows money from the common municipal fund to be advanced to municipalities which have accrued social security arrears at 31 July 1998, an agreement to pay was to be signed with the municipalities of Quilpue, Villa Alemana, Lampa, Quinta Normal, Lota, San Clemente, Curacautín and Chimbarongo. The sum to be paid amounts to 4,300 million pesos updated at September 1999: 2,500 million pesos to the AFPs with resources provided under said Act and 1,800 million pesos in judicial transactions with the INP, set out in an agreement concluded with that institution. With this, the global figure at July 1999 of 5,791.9 million pesos would be reduced to 3,252 million pesos. Nevertheless, the search for alternatives permitting this situation to be settled definitively will continue.

With respect to the *legislative measures* adopted to solve the matter of social security contributions in arrears, the Government approved Act No. 19609 of 2 June 1999 which allowed the amount of 3,500 million pesos to be advanced to the municipalities which had social security arrears in respect of teachers. To this end, a period of 120 days was granted for the municipalities to conclude an agreement for advance of the amount required with the Ministry of Education or the Ministry of Health as appropriate. With reference to the case of subsidized educational establishments, the Act empowers the Ministry of Education to retain from the resources or subsidies due to the establishments an amount equivalent to the social security contributions of teaching staff that they should have paid and which are in arrears. Another legislative measure designed to safeguard the workers' social security rights is the approval and promulgation of a Bill under which the labour relations of a worker are maintained in force from the time of his dismissal for as long as the social security contributions in arrears have not been paid to the appropriate institutions. The Labour Code is thus amended to specify that if the social security contributions have not been paid at the time of dismissal, the dismissal will not result in putting an end to the labour contract and the contractual obligations of the parties shall remain in place.

The College of Teachers of Chile, AG indicates for its part that the teachers' trade union, contrary to the statement in paragraph 21 of the report on the representation, had never requested the Ministry of Education to lift the sanction involving suspension of payment of the educational subsidy to those bodies which did not pay the remuneration and contributions of its staff on time. With reference to paragraph 23 of the report, it indicates that according to information submitted in November and December 1998 by the sub-secretary of Regional Development and Administration to the Chamber of Deputies of Chile, more than 104 municipalities out of a total of 350 (namely 29.7 per cent) had social security arrears in the order of $23,442,000 and that this had increased by 7.39 per cent as compared with the previous report of the Government. The College of Teachers of Chile, AG declares its concern at the inadequacy of resources which must be provided under Act No. 19609 of 2 June 1999 to settling the problem of social security arrears; resources which amount to 3,500 million pesos. This mechanism is the only one envisaged to settle total accumulated social security arrears as at June 1999. Furthermore, section 7 of the Act provides special criminal sanctions or retention of the educational subsidy (in accordance with the Act on subsidies) for future arrears which might occur from July 1999 in this respect. The College of Teachers is of the view that the Act suppresses the possibility of penalizing the social security arrears accumulated during the 1980s and to June 1999 through the reduction of subsidies, or qualifying it as an offence of misappropriation of public funds in accordance with section 233 of the Chilean Penal Code. The teachers who depend on the municipal sector are subjected to the will of the municipalities to conclude agreements to settle this long-standing debt or the exercise of the inspection facilities of the social security superintendency and the AFPs to press the social security institutions to initiate and follow up judgements to pay prescribed by the Act, which has not occurred up to the present.

The Committee notes the *special supervisory measures* being carried out by the supervisory bodies such as the Ministry of Education and the Directorate of Labour. It notes in particular with interest the actions such as publication in the bulletin of offenders against labour and social security legislation of the list of corporations in arrears, the administrative fines imposed on municipalities in regard to social security and the special supervisory programmes for municipally run schools. The Committee requests the Government to provide information on the penalties which could be applied to municipalities which have not paid the social security contributions and on the results of any cases brought against such municipalities. It also takes note of the *information* relating to the amount of the social security arrears of the municipalities as well as on the number of municipalities that have social security arrears. It observes discrepancies between this information and the information provided by the College of Teachers of Chile, AG. It requests the Government to supply its comments on the discrepancy observed and to provide precise statistical information on the number of workers affected by the unpaid remuneration and contributions. The Committee notes the *legislative measures* adopted to settle the arrears in social security contributions. It notes with interest the amount of 3,500 million pesos which the Government has approved pursuant to Act No. 19609 of 2 June 1999 and the Bill under which the labour relationship of a worker is maintained at the time of his dismissal for as long as the social security contributions in arrears have not been paid to the relevant institutions. It requests the Government to provide information on the application of Act No. 19609, including on the number of municipalities which wish to take advantage of funds advanced in order to settle teachers' individual accounts.

2. The Committee notes the comments received on 20 October 1998 from the Unitary Occupational Front of Pensioners and Survivors of Chile (Region V) alleging that the adjustment of the pensions provided under the former system of redistribution of pensions is not sufficient in regard to the international standards ratified by Chile. The Committee also notes the Government's reply to these comments.

In its communication, the Occupational Front states that in the past 25 years the pensions dependent on the redistribution scheme have undergone serious deterioration and the Front refers to the facts that have produced this. According to the Front, pensions have deteriorated during two periods: the first stretched from 29 September 1973 to 10 May 1990 and the second from 11 May 1990 to 31 August 1998. In the first of them, it refers to a series of suspensions of the adjustment of pensions applied under legislative decrees. In the second, it refers to adjustments carried out at various periods, and to sectors excluded from such adjustments. Reference is also made to increments made to minimum and basic pensions.

The Government, for its part, supplies information to the effect that it is not possible to affirm that the system of updating or adjusting pensions provided under the former system of pensions is not sufficient in relation to the international standards ratified by Chile. On this matter, it indicates that the standards on the reassessment of pensions under Act No. 15386 of 1963 ceased to be applicable when they were replaced by an automatic adjustment system established in section 14 of Legislative Decree No. 2448 and section 2 of Legislative Decree No. 2547, both of 1979. In addition, pursuant to Legislative Decree No. 2444 of the same year, all the pensions that began before 1 September 1975 were specially readjusted so that from September 1978, they thus recovered their initial purchasing power. Since then, adjustments made to pensions have been equivalent to 100 per cent of the variation shown on the Consumer Price Index (CPI) during the corresponding period, with the sole exception of May 1985 when the adjustment granted was lower by 10.6 per cent than the CPI variation for the period from November 1984 to April 1985, and also in March 1987 and April 1988, when the adjustments applied to pensions at the highest rate were also less than the CPI variation.

Pursuant to Act No. 18987, in July 1990, in conjunction with the automatic adjustment applied in accordance with section 14 of Legislative Decree No. 2448 of 1979, minimum pensions were adjusted by 10.6 additional points. Then, as provided in Act No. 19073, an adjustment of 10.6 per cent was applied to all pensions mentioned in section 3, as from 1 July 1999, stipulating different dates according to the amount of the pensions. In this way, since December 1992, pensions of the former system have recovered their initial purchasing power by maintaining in the present adjustment system compensation for the effects on them produced by inflation; it should also be noted that special adjustments have been granted to the lowest pensions designed to increase their amounts in real terms.

The Committee notes this information. In order to appreciate whether, in conformity with *Article 19 of the Convention*, adjustments to pensions are at least sufficient to cover the essential needs of the pensioner, the Committee requests the Government to supply statistical information in respect of the same period of time on the evolution of the cost of living and the evolution of benefits, including the amount of minimum pensions.

3. In regard to matters of principle, as indicated in its previous observation, in conformity with usual practice, the Committee decided to postpone its examination of the application of Conventions Nos. 35, 36, 37 and 38 pending the decisions to be adopted by the Governing Body in respect of the representation made in November 1998, under article 24 of the ILO Constitution, by various national unions of workers of pension fund administration companies. The Committee will therefore examine the information supplied by the Government in its report relating to the period 1998-99 in the light of the decisions adopted in due course by the Governing Body in the framework of said representation.

* * *

In addition, a request regarding certain points is being addressed directly to *Argentina*.

Convention No. 36: Old-Age Insurance (Agriculture), 1933

Chile (ratification: 1935)

See under Convention No. 35.

Convention No. 37: Invalidity Insurance (Industry, etc.), 1933

Chile (ratification: 1935)

See under Convention No. 35.

Djibouti (ratification: 1978)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee recalls that for many years it has been requesting the Government to take steps to amend its legislation so as to provide for invalidity insurance. It again

expresses the hope that, with the technical assistance of the International Labour Office, the Government will endeavour to establish an invalidity insurance scheme in accordance with the provisions of the Convention.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Convention No. 38: Invalidity Insurance (Agriculture), 1933

Chile (ratification: 1935)

See under Convention No. 35.

Djibouti (ratification: 1978)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which refers to Convention No. 37. The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Convention No. 41: Night Work (Women) (Revised), 1934

Central African Republic (ratification: 1960)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> In its former comments, the Committee noted that section 3 of Order No. 3759 of 25 November 1954 allows departures to be made from the ban on night work for women in circumstances which are not recognized by this Convention. The Committee notes the Government's declaration that the social crisis which has affected the Government in recent years has not allowed it to amend section 3 of the said Order. It expresses the hope that the Government will do everything in its power to take, in the near future, the necessary measures which have long been announced to bring the law into harmony with the Convention.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

* * *

In addition, a request regarding certain points is being addressed directly to *Afghanistan*.

Convention No. 42: Workmen's Compensation (Occupational Diseases)

France (ratification: 1948)

With reference to its earlier comments, the Committee notes that the Government's report supplies no answer to the questions it had raised. Under these circumstances, it has no choice other than to draw the Government's attention once again to the points it has raised previously.

1. The Committee again draws the Government's attention to the need to bring national legislation into full conformity with the Convention as regards the following points: (a) *the restrictive nature* of the pathological manifestations listed under each of the diseases in the schedules of the national legislation; (b) the absence from these schedules of an item covering in general terms, as in the Convention, *poisoning by all halogen derivatives of hydrocarbons of the aliphatic series and by all compounds of phosphorus*; and (c) the omission, from among trades likely to cause *primary epitheliomatous cancer of the skin*, of processes involving the handling of certain products mentioned by the Convention.

The Committee noted with interest the establishment, under section 7 of Act No. 93.121 of 27 January 1993 (amending section L.461-1 of the Social Security Code), of a supplementary system for the recognition of occupational diseases based on an individual examination of cases carried out by the regional committees for the recognition of occupational diseases established under Decree No. 93.683 of 27 March 1993. This system makes it possible for workers who suffer from a disease that is not included in a schedule or which does not meet the criteria contained in the schedule, to claim compensation in respect of occupational diseases provided that the occupational nature of the disease is demonstrated in adversarial investigation of the claim by the regional committees for the recognition of occupational diseases.

The Committee also noted, from the guide prepared by the Ministry of Labour for the regional committees for the recognition of occupational diseases, that, as regards the cases of serious diseases covered by paragraph 4 of section L.461-1 of the Social Security Code, although the existence of a direct and fundamental connection between the disease and the normal occupational activity of the victim is required for the recognition of the occupational origin of the disease, this connection does not necessarily exclude the effect of factors other than those of an occupational nature. In this latter case, it is nevertheless necessary for occupational factors to constitute the determinant and overwhelming causal factor in the emergence of the disease. The guide also contains certain methodological indications for the use of the committees concerning the diseases that are likely to arise most frequently in the context of the procedure referred to in paragraph 4 of section L.461-1.

The Committee recalls that the Convention, with its enumeration under each of the diseases included in its schedule of the occupations and industries liable to cause these diseases, is intended to relieve workers in the above occupations and industries of the obligation to provide proof that they have in fact been exposed to the risk of the disease in question, which may in certain cases be particularly difficult to demonstrate. In this context, the Committee notes that, according to the above guide prepared by the Ministry of Labour, the file that has to be submitted to the regional committee by the primary fund must endeavour to describe the medical characteristics of the disease and the technical nature of the exposure, as well as providing any relevant information concerning the pathological case history of the victim and, where appropriate, the non-occupational pathogenic factors to which the victim may have been exposed. The attribution of the disease to risk factors has to follow the usual procedures. The analysis of the symptoms and the evaluation of the diagnosis are determinant factors in the attribution of the disease, as well as the examination of the chronological relationship between exposure and the onset of the disease, with particular importance being attached, where appropriate, to any delay in the appearance of symptoms and any reincidence following further exposure. The elements in the file must not be confined to the last identified employer. Finally, the investigation must be adversarial in its nature and include all the expert opinions that can contribute information on the disease from which the claimant suffers, on his or her working conditions and the circumstances surrounding the exposure to the alleged harmful agents. All of the proof produced must also be communicated to the parties concerned who have full latitude to produce the opinions and documents which appear to them to be necessary.

In view of the objectives of the Convention as recalled above, the Committee would be grateful if the Government would provide detailed information on the effect given in practice to the new supplementary system for the recognition of occupational diseases, particularly with regard to *the establishment of the direct and fundamental link between the disease with the normal occupational activity of the victim* (as set out in paragraph 4 of section L.461-1 of the Social Security Code) and the *furnishing of proof* in the specific cases of the diseases included in the schedule attached to the Convention. The Committee also notes with interest that firstly, the level of activity of the regional committees for the recognition of occupational activities is constantly increasing, and secondly, a high rate of favourable decisions (60 per cent) has been obtained. It therefore requests the Government to continue to supply information in this respect, in particular on the results of all proceedings initiated before these committees regarding the diseases enumerated in the schedule to the Convention.

2. The Committee considered that the scope of the new procedure (paragraph 4 of section L.461-1 of the Social Security Code) was seriously limited by the fact that it was open only to workers suffering from a minimum partial permanent incapacity of 66.6 per cent, thus excluding diseases which result in a high degree of invalidity and which are liable to prejudice the social and occupational situation of the victims to a particularly significant degree. In this connection, the Government indicates that the requirement of a minimum incapacity rate of 66.6 per cent was established by referring to the minimum incapacity rate required to obtain a pension under incapacity insurance. The Committee notes this information. It hopes that the Government will be able to re-examine this question in the light of the comments outlined above and provide information in its next report on all new measures adopted or envisaged in this regard. In addition, it requests the Government to supply a copy of the dispositions fixing the minimum incapacity rate of 66.6 per cent needed to obtain a pension under incapacity insurance.

3. Finally, the Committee hopes that the implementation of the new procedure for the recognition of occupational diseases will, as stressed by the guide for the regional committees, lead to the adoption of legal measures so as to complete the schedules in French legislation in conformity with the objectives of the Convention.

[The Government is asked to report in detail in 2000.]

Turkey (ratification: 1946)

The Committee notes the information and statistics provided by the Government and the observations made by the Confederation of Turkish Employers' Associations and the Confederation of Turkish Trade Unions on the application of the Convention.

1. In reply to the Committee's comments, the Government confirms that any disease which is not mentioned in the schedule annexed to the Regulations of 3 July 1985 may nevertheless be recognized as an occupational disease by the Higher Medical Social Insurance Council and that the schedule of pathological manifestations is of an indicative, not of a restrictive nature. On this subject, the Confederation of Turkish Employers' Associations also indicates that the compensation of occupational diseases is not subject to a restrictive approach and that Turkey has opted for a dual system composed of a schedule of occupational diseases and the possibility of considering diseases which are not included in the schedule as occupational diseases, in accordance with section 65 of the above Regulations. However, the Confederation of Turkish Trade Unions draws attention to the low number of occupational diseases reported (1,055 cases in 1997). According to the Confederation, this figure demonstrates that the system for the determination of occupational diseases is not adequate, particularly due to the insufficient numbers of medical personnel, the failure to undertake the necessary examinations and the lack of awareness and insufficient training of medical personnel in this field.

The Committee notes this information. It considers that it would be desirable, in order to prevent any ambiguity, that on the occasion of a future revision of the relevant legislation the Government should take all the necessary measures to add a provision to the legislation clearly indicating that the *schedule of pathological manifestations* is of an *indicative* nature (section 129 of Act No. 506 respecting social insurance, to which the Government refers on this matter, concerns the composition of the Higher Medical Social Insurance Council). Furthermore, the Committee would be grateful if the Government would provide detailed information in its next report with regard to the concerns expressed by the Confederation of Turkish Trade Unions concerning the inadequacy of the system for the recognition of occupational diseases.

2. With reference to its previous comments, the Committee notes with interest the Government's statement to the effect that the Regulations of 3 July 1985 establish, for each type of disease, a minimum duration of exposure to the hazard determined in the light of current scientific knowledge, and not a duration determined in a general manner for all the listed occupational diseases.

* * *

In addition, requests regarding certain points is being addressed directly to the following States: *Comoros, Honduras, India, Mauritius, Myanmar.*

Convention No. 44: Unemployment Provision, 1934

Algeria (ratification: 1962)

With reference to its earlier comments, the Committee notes with satisfaction the adoption of Decree No. 94-11 of 26 May 1994 which establishes unemployment insurance for employees liable to lose their employment involuntarily and for economic reasons.

In addition, the Committee is addressing a request regarding a certain number of points directly to the Government.

New Zealand (ratification: 1938)

With reference to its previous comments, the Committee notes the information supplied by the Government in its report. It also notes the new comments made by the New Zealand Council of Trade Unions (NZCTU) and the New Zealand Employers' Federation (NZEF) and the Government's reply to these comments.

1. The NZCTU is still concerned at the insufficient information contained in the Government's report with regard to the new legislative provisions applicable to unemployment. The Social Security (Work Test) Amendment Act of 1998 has introduced a new work-test scheme for the unemployed who may in particular be forced to participate in "organized activities" such as training, work experience or community work; refusal to participate in these activities is sanctioned by suspension of the "community wage". The NZCTU alleges that the requirement for the unemployed to participate in community work on pain of losing the right to the community wage is in breach of *Article 9 of the Convention* which refers to *relief work*. Community work does not correspond to relief work as defined in paragraph 11(c) of the Unemployment Provision Recommendation, 1934 (No. 44), to the extent that it does not have the characteristics of exceptional or short-term work administered by a public authority out of special funds allocated for the relief of the unemployed. The trade union considers that the projects which include community work are more in keeping with a coercive employment scheme in which individuals are required to work without wages or protection resulting from an employment relationship. The NZCTU also indicates that of the 672 cases of suspension of "community wages" because of failure to participate in an organized activity mentioned by the Government in its report, some concerned the community work scheme. It claims that these suspensions are contrary to *Article 10* of the Convention in that they apply to unpaid work. The trade union expresses its concern at the application of sanctions to unemployed persons who refuse to participate in certain organized activity which can clearly not be considered to be employment.

2. In reply, the Government indicates that the changes introduced by the Social Security (Work Test) Amendment Act do not substantively change the obligations incumbent on beneficiaries of the "community wage" who must still be available for and actively seeking paid work. In this context, failure to participate without good reason in programmes that would improve their prospects of finding paid work is seen as a failure to be actively seeking work. Thus, people are referred to community work which forms part of these activities if they need work experience, which will improve their chances of finding paid work. The proportion of "community wage" beneficiaries participating in an activity is under 10 per cent as most of them are not considered to be in need of any assistance in their job search. With particular reference to community work, the Government indicates that it is similar in nature and has the same objectives as the community task force programme that operated from 1991. It is unpaid work experience that is of demonstrable benefit to the community or the environment. Participants in the work are not considered as employees but, in view of the hours they work, their "community wages" amount to more than the minimum wage on an hourly basis. The work must normally be temporary and is exceptional in the sense that the bodies for which it is done must demonstrate that they would not normally engage paid workers to do it.

Finally, the Government states that the organized activities include interviews with the Department of Work and Income, work assessment, attending a job interview for suitable employment, creating and complying with an individual action plan, participation in a programme, seminar, training or other specific activity including community work.

3. The NZEF supports the Government's position and indicates that every effort should be made to ensure that the receipt of substitute income does not become a permanent way of life. The main purpose of the new system is to encourage unemployed people back into the workforce as soon as possible.

4. The Committee notes all of this information. It observes that to receive the "community wage" an applicant has to sign a jobseeker contract in which he recognizes the obligation to look for work and to take appropriate steps to improve his employment prospects. With this aim, he or she may be asked to participate in organized activities, including community work. In this respect, the Committee recalls that, under *Articles 8 and 9* of the Convention, the right to receive benefit or an allowance may be made conditional upon attendance at a course of vocational or other instruction and to the acceptance, under conditions prescribed by national laws or regulations, of employment on relief work organized by a public authority. Paragraph 11(b) and (c) of the Unemployment Provision Recommendation, 1934 (No. 44), lays down that when imposing on an unemployed person an obligation to accept employment on such work, account should be taken of his age, health, previous occupation and suitability of the employment in question. In addition, only work of an exceptional and temporary nature, organized by the public authority by means of funds specially allocated for the relief of the unemployed, should be considered as relief work. The Committee notes that, according to the information supplied by the Government, community work is particularly designed for the long-term unemployed (unemployed for 26 weeks or longer). It recalls in this respect that, under *Article 11* of the Convention, benefit or an allowance should normally be paid for a period of not less than 156 working days per year and in no case less than 78 days per year. In these circumstances, the obligation imposed on unemployed persons to participate in community work concerns a period of unemployment extending beyond the minimum protection period guaranteed by *Article 11* of the Convention. The Committee would therefore be grateful if the Government would indicate in its report the provision under which community work is proposed only to the long-term unemployed.

In addition, the Committee notes that according to the information communicated by the Government community work should normally be of a temporary nature and that its exceptional nature results from the fact that it would not have been done by a paid worker. It seems, nevertheless, that despite the exceptional nature of community work, the number of people participating in it has increased considerably owing to the increase in the variety of work concerned: about 8,700 people in 1999 as against 2,500 in 1997 under the community task force scheme. It therefore appears to have become institutionalized as a source and form of labour. The Committee requests the Government to supply detailed information on the nature of this work and the number of unemployed participating in it as a proportion of the total number of registered unemployed. It would also be grateful if the Government would send copies of the texts regulating community work (work concerned, bodies for which it is carried out).

Finally, referring to the NZCTU comments on the cases of suspension of benefit, the Committee considers that suspension of the "community wage" for failure to participate in organized activities does not fall within the scope of cases of suspension provided in *Article 10, paragraph 1*, of the Convention in that the refusal to participate in these activities cannot be assimilated to refusal of an offer of suitable employment but falls within the framework of cases of suspension provided in *Article 10, paragraph 2(d)*, of the Convention under which a claimant may be disqualified for the receipt of benefit or of an allowance for an appropriate period if he fails to comply with the instructions of a public employment exchange or other competent authority with regard to finding employment. Nevertheless, the Committee would be grateful if the Government would continue to supply information on the number of cases of suspension and the reasons for suspension. The Committee also requests the Government to supply any supplementary information on the unemployment benefit system and its application in practice. In addition, it hopes that the Government will supply detailed information on point 4 of the observation it made in 1998 under Convention No. 122.

Spain (ratification: 1971)

The Committee notes the detailed information provided by the Government in its report as well as the comments made by the General Union of Workers (UGT).

1. In its comments, the UGT notes that less than 50 per cent of workers who are involuntarily unemployed receive unemployment benefit. It stresses the need to reform the unemployment protection system increasing the flexibility of conditions for provision of benefits and increasing the number of beneficiaries. In addition, the trade union considers that the surplus yielded from unemployment contributions should not be used to finance non-contributory social assistance benefits, employment promotion policies or to grant subsidies to employers – which should be financed from the state budget – but to increase the number of unemployed persons acceding to contributory unemployment benefit and also the scope of such benefit.

In its report, the Government recalls the reasons for the modifications made to the unemployment compensation system in 1992 and 1994. It states that the number of unemployed persons entitled to unemployment benefits should stabilize around 50 per cent. Furthermore, the action plan for employment approved by the Council of Ministers is focused, in conformity with European Union directives in this respect, on active employment policies and reinsertion policies rather than passive policies or unemployment protection policies, but nonetheless without lowering the level of protection against unemployment already attained.

The Committee takes note of all this information. It recalls that, notwithstanding the modifications made to the unemployment compensation regime in 1992 and 1994 (stricter conditions governing entitlement to benefits and length of benefits), the legislation continues to give effect to the provisions of the Convention with the exception of the point developed in paragraph 2 below. The Committee is nonetheless concerned by the large number of unemployed persons without protection. Under the circumstances, it requests the Government to continue to supply detailed information on the number of persons entitled to unemployment benefits as compared to the total number of registered unemployed. It also requests the Government to supply information on any new measures adopted in this respect.

2. *Article 2, paragraph 2, of the Convention.* With reference to the Committee's earlier comments on the exclusion from the unemployment protection regime of workers under contracts of apprenticeship, the Government states that this type of contract has been replaced by a training contract, the modalities of which had been subject to negotiation and agreement by the social partners (Chapter I of Act No. 63/97 of 26 December 1997 on urgent measures to improve the labour market and promote permanent employment). These contracts are for young persons without skills or with few skills and answer to the need to encourage employment of young persons, a category particularly affected by unemployment, by reducing the cost of such employment. While the Committee is aware of the considerations which have led to the exclusion of persons holding training contracts from the unemployment protection system, it nonetheless recalls that, while the Convention allows exclusion from unemployment benefits of young workers under a prescribed age *(Article 2, paragraph 2(f))*, it is clear from the preparatory work on the Convention that the term "young" was added to this provision to ensure that the prescribed age was not excessively high. In this connection, the Committee notes with interest the Government's indication, on page 8 of its report, that the age at which workers may take advantage of these contracts has been reduced from 24 to 19 years. However it observes from Act No. 63/97 cited above, that the new drafting of section 11 of the Workers' Statute Act opens such contracts to young persons aged between 16 and 21 years. Under these circumstances, the Committee requests the Government to provide clarification on this point in its next report. It also requests the Government to submit statistical information, disaggregated by age, on the number of young persons employed under these contracts and on the average length of the contracts.

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In addition, requests regarding certain points are being addressed directly to the following States: *Algeria, Bulgaria.*

Information supplied by the *Netherlands* in answer to a direct request has been noted by the Committee.

Convention No. 45: Underground Work (Women), 1935

Guinea-Bissau (ratification: 1977)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> In previous observations, the Committee noted that Act No. 2/86 of 5 April 1986 enacting the Labour Code repealed previous legislation which barred the employment of women on underground work but its section 155 provided that supplementary legislation will establish the circumstances or banning of their employment on such work as well as on other work liable to prejudice women's genetic function.
>
> The Committee notes that according to the Government's previous report, no progress has yet been achieved in harmonizing legislation with the Convention. It hopes that the necessary measures will be taken by the Government, in accordance with its obligations arising from ratification of the Convention. It requests the Government to communicate information on any new measure in this respect.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

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In addition, a request regarding certain points is being addressed directly to *Angola*.

Information supplied by *Malta* in answer to a direct request has been noted by the Committee.

Convention No. 47: Forty-Hour Week, 1935

Requests regarding certain points are being addressed directly to the following States: *Azerbaijan, Russian Federation, Tajikistan*.

Convention No. 48: Maintenance of Migrants' Pension Rights, 1935

Croatia (ratification: 1991)

The Committee has noted the new comments made by the Association of Clubs of Military Retirees of the Union of Retirees of Croatia concerning the application of Conventions Nos. 48 and 102, in its communications received in May and November 1999. It has also noted the information supplied on this matter by the Government in December 1998, March 1999 and November 1999. The Committee notes that, in its comments, the Association supplies new data on the situation of army pensioners of the former Federal Army (JNA) – Croatian citizens receiving a pension from Croatia as a former member of the Federation – who receive less favourable treatment than other pensioners in Croatia. The Committee recalls that Convention No. 48 is aimed at establishing between Members of the International Labour Organization which are bound by the Convention, a scheme for the maintenance of rights in course of acquisition or acquired by migrant workers in regard to pensions. It therefore considers that the issues raised by the Association of Clubs of Military Retirees of the Union of Retirees of Croatia do not fall within the scope of Convention No. 48 and refers, on this matter, to the comments it made in 1998 under Convention No. 102.

Convention No. 52: Holidays with Pay, 1936

Myanmar (ratification: 1954)

The Committee has noted the Government's latest report on application of the Convention. In it the Government indicates that draft texts revising the 1951 acts on factories, shops and undertakings and on holidays and public holidays are still under consideration by the legislation supervisory body. With reference to its previous comments, the Committee recalls that these texts must ensure the application of the Convention to all the undertakings set forth in *Article 1 of the Convention*, particularly small establishments, shops and offices as well as building and public works and road transport undertakings. They should also ensure application of the provisions of the

Convention on the two points below which have been the subject of comments by the Committee for many years.

Article 2, paragraph 2. Every person under 16 years of age should be entitled to an annual holiday with pay of at least 12 working days after one year of continuous service, whereas under section 4(1) of the Leave and Holidays Act workers between 15 and 16 years are allowed only ten days.

Article 4. Any agreement to forego or relinquish the right to the minimum annual holiday with pay laid down in the Convention (six working days, or, in the case of persons under 16 years of age, 12 working days) must be void, whereas section 4(3) of the same Act allows agreements permitting the accumulation of earned leave.

The Committee trusts that the revised texts will be adopted very shortly and that the Government will thus be able to give an account in its next report of progress made in application of the Convention.

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In addition, requests regarding certain points are being addressed directly to the following States: *Azerbaijan, Libyan Arab Jamahiriya, Tajikistan.*

Information supplied by *Albania* in answer to a direct request has been noted by the Committee.

Convention No. 53: Officers' Competency Certificates, 1936

Requests regarding certain points are being addressed directly to the following States: *Djibouti, Liberia, Libyan Arab Jamahiriya, New Zealand.*

Convention No. 55: Shipowners' Liability (Sick and Injured Seamen), 1936

Liberia (ratification: 1960)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> *Article 1, paragraph 2, of the Convention.* In reply to the Committee's previous comments, the Government refers to the provisions of section 51 of the Maritime Law concerning vessels which can be registered under Liberian law. In this regard, the Committee wishes to draw the Government's attention to the fact that its comments concerned section 290-2 of the law, which provides that persons employed on vessels of less than 75 net tons are not covered by the provisions of Chapter 10 of the law relating specifically to the obligations of the shipowner in the event of seafarers' sickness or accident.
>
> *Article 2, paragraph 1.* The Committee noted that section 336-1 of the Maritime Law provides for payment of the wages, maintenance and medical care of the seaman in cases of sickness or accident while he is off the vessel provided that he is "off the vessel pursuant to an actual mission assigned to him by, or by the authority of, the master". The Committee recalls that under this provision of the Convention the shipowner is liable in all cases of sickness and injury occurring between the date specified in the articles of agreement for reporting for duty and the termination of the engagement.

Article 6, paragraph 2. The Committee noted that, contrary to this provision of the Convention, the approval of the competent authority is not required when a sick or injured seaman has to be repatriated to a port other than the port at which he was engaged, or the port at which the journey commenced, or a port in his own country or the country to which he belongs. Under section 342-1(b) of the Maritime Law, agreement between the seafarer and the master or shipowner suffices. The Government states that if there is agreement between the parties, administrative authorization is not necessary but that, in the event of disagreement, the parties may submit the matter to the Commissioner of Maritime Affairs by virtue of section 359 of the law. The Committee notes this information. It wishes to draw the Government's attention to the need to include provisions in its legislation making it compulsory to seek the approval of the competent authority when the parties agree to a port of repatriation other than those laid down in *Article 6, paragraph 2(a),(b) or (c),* of the Convention. In fact, the provisions of this Article of the Convention are designed to protect a sick or injured seafarer by preventing the master or the shipowner imposing on him a port of repatriation other than the port at which he was engaged, the home port of the vessel or a port in his own country or the country to which he belongs, without the approval of the competent authority; in the event of disagreement between the parties, an appeal to a conciliation authority is not sufficient in itself.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Tunisia (ratification: 1970)

With reference to its earlier comments, the Committee notes the adoption of Act No. 95-59 of 3 July 1995 amending certain sections of the Maritime Labour Code. In particular, it notes with satisfaction that by virtue of the new sections 93 and 95 of the Code, the obligations regarding medical care and maintenance and payment of wages fall to the shipowner in respect of all sick and injured seamen (including the seamen contracted for the voyage) and cease either from the time the seaman has been cured or the sickness or injury has been declared of a permanent character, or from the time the seaman becomes entitled to benefits under a social security system, in conformity with the provisions of *Articles 4 and 5 of the Convention.*

* * *

In addition, a request regarding certain points is being addressed directly to *Djibouti.*

Convention No. 56: Sickness Insurance (Sea), 1936

Peru (ratification: 1962)

The Committee has noted the observations of the Trade Union of Fishing Boat Owner-Masters of Puerto Supe and Associates, in connection with the operating difficulties, in the fisheries sector, of the system of supplementary insurance against employment risks established by the Social Security Modernization Act (No. 26790). These comments were transmitted on 30 July 1999 to the Government which, to date, has made no comment on them. The Committee has therefore decided to defer their examination to its next session in order to examine these observations in the light of, first, information to be communicated by the Government in this respect and, secondly, information contained in the Government's report on application of the Convention, due in 2000. In this context, the Committee recalls the matters to which it drew the Government's attention in its previous observation.

The Committee notes certain information provided by the Government on the application in practice of the Convention. It also notes the adoption in 1997 of the Social Security Health Care Modernization Act (No. 26790), which repeals Legislative Decree No. 22482 on which the Committee had commented previously. The Committee notes that, according to the Government's information, the new legislation provides for the involvement of the private sector in health care. The social health insurance system is now complemented by health plans and programmes provided by Health Care Providers (EPS). These may be public or private companies or institutions distinct from the Peruvian Institute of Social Security and their sole purpose is to provide health care, using their own or third-party facilities, under the supervision of the EPS supervisory body.

The Committee notes that Act No. 26790 introduces fundamental changes into the health care system. Furthermore, it is the Committee's understanding that the new legislation also applies to persons employed on Peruvian ships. The Committee therefore requests the Government to provide detailed information, in accordance with the report form, on the effect of the new legislation and national practice on the application of each of the Articles of the Convention and, in particular, *Article 1* (scope), *Article 4* (payment to the seafarer's family of the sickness cash benefits to which he would have been entitled had he not been abroad), *Article 6* (funeral expenses) and *Article 7* (continuation of insurance benefit after the termination of engagement).

The Government is also requested to consider the Committee's comments concerning Convention No. 24 made in 1998.

Convention No. 58: Minimum Age (Sea) (Revised), 1936

Liberia (ratification: 1960)

In its previous comments the Committee noted that section 326(1) of the Maritime Law, as amended, set 15 years as the minimum age for admission to employment or work on Liberian vessels registered in accordance with section 51 of the Maritime Law. Noting however that section 326(3) permits persons under the age of 15 to occasionally take part in the activities on board such vessels, the Committee has requested the Government in comments repeated since 1995 to indicate how such special employment is limited to persons of not less than 14 years of age, taking into account all the conditions set forth in *Article 2, paragraph 2, of the Convention*.

Noting that the Government has submitted the matter to the Commissioner of the Bureau of Maritime Affairs with the instruction that the necessary steps be taken to make the required information available, the Committee hopes that such information will soon be provided.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Australia, Grenada.*

Convention No. 59: Minimum Age (Industry) (Revised), 1937

Sierra Leone (ratification: 1961)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which reads as follows:

> In its previous comments, the Committee noted the draft Employment Act prepared with the ILO's assistance which prescribes the age of 16 years for admission to employments likely to jeopardize the life, health or morals of young persons, so as to give effect to *Article 5 of the Convention*. The draft Act also provides that "the employer shall keep a register of all children under the age of 18 years employed by him and of the dates of their birth", in accordance with *Article 4* of the Convention. The Committee notes that the draft Act has not yet been enacted. Therefore, it expresses the hope again that the new Act will be adopted in the very near future in order to ensure complete conformity of the national legislation with the Convention on these points and that the Government will soon be able to communicate the text of the new Employment Act.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

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In addition, requests regarding certain points are being addressed directly to the following States: *China (Hong Kong Special Administrative Region), Nigeria, Peru, Swaziland, United Republic of Tanzania.*

Convention No. 62: Safety Provisions (Building), 1937

Central African Republic (ratification: 1964)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee notes the information supplied by the Government in its report. It notes in particular the information that the Government has taken due note of the comments of the Committee and that the necessary measures will be taken within the overall revision of the legislative and regulatory texts on labour envisaged by the Department of Labour and that the technical assistance of the ILO's multidisciplinary advisory team for Central Africa will be requested. The Committee trusts this overall revision will be accomplished soon and that the Government will not fail to address the Committee's previous comments as set out below.
>
> *Introduction into national legislation of the standards set forth in ratified Conventions*
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> In its previous comments, the Committee drew the Government's attention to the need to adopt measures in laws and regulations to give effect to the provisions contained in the Convention even if, as stated by the Government, under the Constitution of 4 January 1995, international agreements, treaties and conventions that are duly ratified by the Republic have the force of national law.
>
> The Committee recalls that the incorporation into national legislation of the provisions of ratified Conventions, from the mere fact of their ratification, is not sufficient to give

> effect to them at the national level in all cases in which the provisions are not *self-executing*, that is where they require special measures for their application, which is the case, at least, for Part I of the Convention. Furthermore, special measures are also needed to establish penalties for non-observance of the standards set forth in the instrument, which is the case of *Article 3(c) of the Convention.*
>
> The Committee once again draws the Government's attention to *Article 1, paragraph 1*, of the Convention, in accordance with which each Member which ratifies the Convention undertakes to maintain in force of laws or regulations which ensure the application of the General Rules set forth in Parts II to IV of the Convention. In this respect, the Committee recalls that draft texts were prepared following the direct contacts which took place in 1978 and 1980 with the responsible government services. The Committee is bound to express the firm hope that the relevant texts will be adopted in the very near future.
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> *Statistics of accidents (Article 6 of the Convention)*
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> For a number of years, the Committee has been noting the absence, in the Government's reports, of statistical information relating to the number and classification of accidents occurring in the building sector. In its last report, the Government states that the Labour Department does not currently have at its disposal reliable statistics in this field.
>
> The Committee recalls that, under this Article of the Convention, each Member which ratifies the Convention undertakes to communicate the latest statistical information indicating the number and classification of accidents in an enterprise or sector. The Committee once again hopes that the Government will soon be in a position to indicate the measures which have been taken to give effect to the Convention on this point and to supply the appropriate statistical information.

* * *

In addition, a request regarding certain points is being addressed directly to the *Democratic Republic of the Congo.*

Convention No. 63: Statistics of Wages and Hours of Work, 1938

Algeria (ratification: 1962)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> *Parts II and IV of the Convention.* The Committee notes that, according to the Government's report, the National Statistical Office has embarked upon the reorganization and strengthening of its structures in order to improve the collection, compilation and dissemination of statistics, particularly concerning wages and hours of work. It hopes that the statistical data obtained following these reforms will be transmitted to the Office in the near future. It also requests the Government to supply information concerning the scope of these statistical inquiries, the types of data compiled and the publications in which the data are published.
>
> *Part III.* The Committee notes the information supplied by the Government concerning the rate of the guaranteed national minimum wage and the level of family allowances. It once again hopes that the Government will take the necessary measures to

Barbados (ratification: 1967)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee has been making comments concerning *Parts II and IV of the Convention*, asking the Government to make efforts to resume the compilation and publication of statistics of wages and hours of work required under these Parts of the Convention. It requests the Government to continue to provide information on any progress made in this respect, especially following the above-mentioned technical assistance provided by the Office and the participation of officials from Barbados in the Subregional Workshop on the Development of a Wage Statistics Programme for the Caribbean (November 1996).
>
> The Committee also draws the Government's attention, as it did in its general observation of 1988, to Convention No. 160 concerning labour statistics adopted in 1985 and which revised the present Convention. The Committee recalls the "principles of flexibility and gradualism" of Convention No. 160, and would like to invite the Government to give consideration to the possibility of ratifying Convention No. 160.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Uruguay (ratification: 1954)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee requests the Government to indicate whether the new directory of establishments is being used as the sample frame for the index of average earnings *(Article 12 of the Convention)*; and whether the "Encuesta nacional de remuneraciones" will be repeated on a regular basis.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Chile, Cuba, Djibouti, Kenya, Myanmar, Nicaragua, Syrian Arab Republic, United Republic of Tanzania.*

Convention No. 68: Food and Catering (Ships' Crews), 1946

Panama (ratification: 1971)

1. For many years, the Committee has been commenting on the application of the provisions of the Convention, and particularly *Articles 2(a) and 5, paragraph 2(a)*. In its previous comment, the Committee noted the adoption of Legislative Decree No. 8, of 26 February 1998, issuing regulations respecting maritime labour at sea and on waterways, and Legislative Decree No. 7, of 7 February 1998, creating the Maritime Authority of

No. 8 covers accommodation and food and that under section 61 the provision of food shall comply with the standards determined by the internal rules of the vessel. The Committee recalled that, under *Article 2(a) of the Convention*, the competent authority shall discharge the functions (except in so far as they are discharged by virtue of collective agreements) of the framing and enforcement of regulations concerning food and water supplies and catering personnel; and that, in accordance with *Article 5, paragraphs 1 and 2(a)*, the laws or regulations concerning food and catering arrangements shall be maintained in force and shall require the provision of food and water supplies which are suitable in respect of quantity, nutritive value, quality and variety.

The Committee notes with regret that in its report the Government repeats the information which it provided in its previous report relating to the application of these provisions of the Convention, without replying to the Committee's comments. The Committee is bound to hope once again that the Government will adopt the necessary measures to give effect to the provisions of the Convention and that it will provide information on any progress achieved in this respect.

2. With reference to its previous comments on the establishment of a system of inspection *(Article 6)*, the Committee notes the Government's statement in its report to the effect that the Maritime Authority of Panama is framing regulations respecting the inspection of the living and working conditions of seafarers, which contain a chapter covering food and catering, and that the draft text, once it has been prepared, will be submitted for consultation with representatives of shipowners and organizations of seafarers and will be coordinated with the Ministry of Health. The Committee hopes that the Government will provide information on any progress achieved in the preparation and adoption of the above regulations.

[The Government is asked to report in detail in 2001.]

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Egypt, Poland, United Kingdom.*

Convention No. 69: Certification of Ships' Cooks, 1946

Requests regarding certain points are being addressed directly to the following States: *Australia, Azerbaijan, Djibouti.*

Convention No. 71: Seafarers' Pensions, 1946

Peru (ratification: 1962)

1. With reference to the Committee's previous comments, the Government recalls in its report that, in accordance with Extraordinary Presidential Decree No. 057-PCM/93, the Ministry of the Economy and Finance pays the pensions due under Legislative Decree No. 20530 of 1974 to retired employees of the Peruvian Steamship Company (a

pensions of retired employees of the above Peruvian Steamship Company is ensured and would also provide information on the situation of former retirees of this company who have been excluded from their pension fund and have not been reinstated by judicial decision under the Convention.

2. The Committee also requests the Government to indicate in its next report whether the new system of private management of pension funds, established by Decree No. 054-97-EF of 13 May 1997, applies to persons employed on board or in the service of vessels flying the Peruvian flag and, if so, to supply information on the impact of this system on the application of the Convention.

3. Finally, the Committee would be grateful if the Government would provide more detailed information on the application of the Convention: (a) by providing precise responses to the questions in the report form for each Article of the Convention; and (b) by communicating, where appropriate, statistics on the number of seafarers covered by the various pension schemes.

Convention No. 73: Medical Examination (Seafarers), 1946

General observation

The Committee recalls that the purpose of the seafarers' medical examination is integrally linked to the health of the individual seafarer, the health of other persons on board ship, and to the safety of maritime navigation.

First, the examination is intended to determine not only that the seafarer is free from disease, but that he is in good health and not likely to endanger other persons on board or imperil the safety of maritime navigation due to his inability to work. Given the current trend to reduce manning, the incapacity of a single seafarer means overworking other members of the crew, who may in turn become ill and unable to work, thus jeopardizing the safety of maritime navigation.

Second, the examination is intended to determine the fitness of the individual seafarer for the specific work which he is to perform at sea, and third, to rule out that the seafarer is suffering from a disease likely to be aggravated by the conditions of service at sea.

The Committee requests all governments to provide detailed information in the next report concerning the manner in which the competent authority ensures effective supervision of both the quality and the reality of the medical examination for non-resident, foreign seafarers, in particular when the examination is carried out in the seafarer's country of residence or domicile.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Azerbaijan, Djibouti, Panama.*

Convention No. 74: Certification of Able Seamen, 1946

Convention No. 81: Labour Inspection, 1947

General observation

Labour inspection and child labour

The Committee notes that the government reports and annual reports on the work of the inspection services which are transmitted to the ILO contain an increasing volume of detailed information on the matters covered by the Convention included those related to the protection of fundamental rights of the workers. The Committee notes that cooperation between the inspection services and the various bodies and institutions concerned, as well as collaboration with employers' and workers' organizations, has made it possible in a large number of countries to establish effective systems for the communication of information in many fields related to the protection of workers in their work. Occupational safety and health is the field in which these systems tend to operate most frequently. By way of illustration, the compilation, centralization and appropriate use of data are resulting in substantial progress being made in identifying the risk factors causing employment accidents and occupational diseases. The Committee regrets that information is provided too infrequently by governments in their reports or by the central authority in the annual reports on the work of the inspection services on the supervisory and advisory work of the inspection services concerning child labour. However, labour inspectors are well placed in the normal discharge of their duties to gather valuable information concerning the conditions under which children work and the hazards to which they are exposed. The Committee notes that in a large number of countries the simple fact that labour inspectors take an interest in the issue of child labour can raise awareness of the prejudicial effects of work on the development of the child, and that well-targeted inspections have given rise to the lodging of unprecedented numbers of complaints in this respect. When labour inspectors are trained to be aware of their country's policy and legislation with regard to compulsory education, wage rates, family allowances and parental leave, they are also in a position to perceive the relationship between these factors and the promotion of a satisfying working environment, and to identify gaps in the legislation and hidden forms of exploitation favoured by this type of legal void. This facilitates their contribution to the formulation of policies, legal measures and labour standards. The Committee would be grateful if, in the light of the above, governments would take appropriate measures to ensure that supervising the application of legal provisions on child labour is henceforth one of the priorities of the labour inspection services and that information on this matter is regularly included in the annual reports envisaged under *Article 20 of the Convention* or provided in government reports.

Algeria (ratification: 1962)

The Committee notes with interest the information supplied by the Government on the legislative measures adopted in 1998 and 1999, the application of which is under the supervision of the labour inspection, as well as the updated detailed statistical information for the same period in respect of the application of *Article 3, paragraph 1(a)*

Article 21(b) to (g). It requests the Government to continue regularly to transmit such information, which is a key instrument in appreciating progress achieved in the application of the Convention.

In this connection, the Committee notes with interest the considerable reduction in occupational accidents (20,970, of which 188 were fatal, in 1998, against 61,463 of which 530 were fatal, in 1995) as well as the proportion of official notices served by the labour inspectors in the private sector (54.8 per cent in 1998 against 78.94 per cent in 1996) as compared with the statistics supplied by the Government in its earlier reports. This information suggests that the labour inspection services are becoming more efficient and is particularly encouraging in the context of an economy in transition towards liberalism and the increase in the number of private sector undertakings. The Committee would be grateful if the Government would transmit, with its next report, any observations it may think fit on the factors making such results possible.

The Committee is addressing a request regarding certain other points directly to the Government.

Argentina (ratification: 1955)

The Committee notes the Government's reports for the period up to 30 June 1999. It also notes the observations by the Latin American Confederation of Labour Inspectors.

1. The Committee notes with interest that following its previous comments to the effect that no inspection report had been sent to the ILO since 1984, the Government has communicated the 1997 annual labour inspection report as well as the 1997 and 1998 statistical summary on labour inspection, occupational accidents and diseases, required under *Article 21 of the Convention*. It hopes that the Government will in future comply with this requirement of the Convention and provide labour inspection reports on a regular basis.

2. The Committee noted previously that Decree No. 772/96 of 15 July 1996 assigned to the Ministry of Labour and Social Security the functions of supervision and central authority for labour inspection throughout the territory and it expressed the hope that the new structure would enhance progress in the application of the Convention.

The Committee notes that in its observations the Latin American Confederation of Labour Inspectors alleges the absence of inspection services in several provinces of the country *(Article 4)*, the absence of correspondence between the remuneration of labour inspectors and that of other civil servants having lower or equal responsibilities *(Article 6)*, the absence of adequate training of labour inspectors for the performance of their duties *(Article 7, paragraph 3)*, the inadequacy of the number of inspectors, of the frequency of inspection visits *(Articles 10 and 16)*, and non-reimbursement of travelling expenses to labour inspectors *(Article 11)*. It also alleges that the Superintendency of Risks at Work is not performing its functions efficiently and does not take into consideration prevention of accidents *(Articles 8, 10, 13, 14 and 16)*. The Committee hopes that the Government will provide its comments on these allegations as well as information on the status, rights and responsibilities of the inspectors of the Superintendency of Risks at Work.

3. With reference to previous observations by the *Union of United*

of work and the protection of workers, the Committee notes the agreement signed among different administrations and trade unions for an integrated and coordinated plan of port and maritime inspection, whose first phase was executed in December 1997. The Committee hopes that the Government will provide information on any further labour inspection activities undertaken in the framework of this plan.

4. The Committee addresses a request directly to the Government on certain other points.

Bosnia and Herzegovina (ratification: 1993)

The Committee notes that the Government has supplied no report on the application of the Convention since 1993.

1. *Obligation to report on ratified Conventions.* Recalling to the Government its formal acceptance on 12 April 1993 of the obligations of the ILO Constitution, in conformity with article 1, paragraph 3, thereof, the Committee would be grateful if the Government would provide periodic reports on the manner in which effect is given, in law and in practice, to the provisions of the present Convention by supplying the information requested in the report form adopted by the Governing Body to this end.

2. *Right to free access of labour inspectors to workplaces liable to inspection.* A representation addressed to the ILO on 9 October 1998 under article 24 of the ILO Constitution by the Union of Autonomous Trade Unions of Bosnia and Herzegovina (USIBH) and the Union of Metalworkers (SM) alleging non-observance by the Government of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). The Committee established by the Governing Body of the ILO to examine the representation considered in the conclusions to its report adopted at the 276th Session of the Governing Body (November 1999) that the facts placed before it also constituted violations by the Government of the Termination of Employment Convention, 1982 (No. 158), and of Convention No. 81. It consequently adopted a series of Recommendations including that of entrusting the follow-up of the matter to the present Committee, especially for the purpose of monitoring the application of the Conventions cited above.

The representation in question reported a decision to dismiss 1,550 workers, on the basis of national origin or religion, taken by the directors of the "Aluminium" and "Soko" factories, both situated at Mostar. It established that the inspectors mobilized by the trade union organizations to verify the facts and enquire into the precise circumstances of the dispute were unable to accomplish this task in the factories since they lacked the explicit prior authorization of the Cantonal Minister. The Committee notes that the fact that a cantonal labour inspector should be obliged to request authorization from the Cantonal Minister before undertaking an inspection visit is not in conformity with *Article 12, paragraph 1, of this Convention.* The Committee stresses that, under *Article 12(a)*, labour inspectors should effectively be authorized to enter freely and without previous notice at any hour of the day or night any workplace liable to inspection. Referring also to paragraphs 156 to 168 of its 1985 General Survey on labour inspection, the Committee requests the Government to take, as soon as possible, all necessary measures to repeal from the legislation the requirement that labour inspectors

[The Government is asked to report in detail in 2000.]

Brazil (ratification: 1989)

The Committee notes with interest the detailed information provided by the Government in its comprehensive report as well as the annexed documents. It also notes the observations by the Union of Workers of Marble, Granite and Limestone Industry in the State of Espírito Santo (SINDIMÁRMORE) and the Government's response to these comments.

1. *Article 3, paragraph 1(a), and Article 16 of the Convention. Functions of the system of labour inspection; adequate frequency and thoroughness of inspection visits.*

(a) Application of the provisions to combat child labour and forced labour. The Committee notes the Constitutional Amendment No. 20, dated 15 December 1998, which increased the minimum age of admission to work from 14 to 16 years, except for apprentices who can be admitted to work as from 14 years. It also notes the Government's indication that Cells to Combat Child Labour and Protect Adolescent Workers, which include inspectors, elaborated a Preliminary Assessment on Child and Adolescent Work which identified 75 activities exercised by children and adolescents. On that basis the inspection teams have selected areas where child labour is most critical with the aim of reinforcing inspection activities. The assessment was updated in 1997-98 on the basis of the data collected by the inspection teams. In relation to activities to combat forced labour the Committee notes the indication that the Executive Group for the Repression of Forced Labour (GERTRAF) operating through mobile inspections has given fruitful results, in particular through joint efforts of the federal police with the labour prosecutors. The Committee hopes that the Government will continue to supply information on the activities of the labour inspection to combat child and forced labour and on the progress achieved.

(b) Application of the legal provisions relating to occupational safety and health. With regard to the implementation of the National Programme to Combat Occupational Accidents and Disease the Committee notes that in 1997 the number of accidents (369,065 cases) and that of occupational diseases (29,707 cases) has decreased by 6.67 per cent and 14.85 per cent respectively as compared to 1996. The Committee further notes the Government's information that in 1998 the number of inspections relating to health and safety at work rose by 14.31 per cent as compared with 1997. The Government also states that the policy of prioritizing inspections in health and safety at work led the inspectors to visit the highest risk establishments which led to an increase of 247.61 per cent in the number of embargo orders *(embargos)* and of 71.95 per cent in the number of cases of prohibition to entry *(interdições)*. In relation to the construction sector, which was made, in 1998, a national priority for labour inspection given the high occupational accident rates, in 1998 the number of embargo orders (10,640 cases) and that of prohibition to entry (6,455 cases) increased by 267.28 per cent and 93.55 per cent respectively as compared to 1997.

The Committee hopes that the Government will continue to supply information on the progress made in reducing the number of industrial accidents and occupational diseases through increased and focused inspection in the field of safety and health in

The Committee addresses a direct request to the Government in relation to the application of *Article 2, paragraph 1; Article 6; Article 7, paragraph 3; Articles 8; 10; 20 and 21* of the Convention.

Central African Republic (ratification: 1964)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation on the following matters.

Articles 10, 11 and 16 of the Convention. In its previous comments, the Committee noted the inadequacy of the number of inspectors and the precarious nature of the material conditions for carrying out inspection duties (fire and the failure to rebuild the Regional Labour Inspectorate in Bangui; lack of vehicles available to the Labour Directorate General giving rise to a lack of efficiency in regional inspections; shortage of supplies and equipment; failure to reimburse travelling expenses to inspectors).

The Committee again expresses the hope that the Government will take the necessary measures so that labour inspection duties can be performed by making available the necessary resources and so that workplaces can be inspected as often and as thoroughly as is required. The Committee is addressing a request directly to the Government concerning the application of *Articles 3, paragraph 2; 20 and 21* of the Convention.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Chad (ratification: 1965)

The Committee notes that the Government's report has not been received. It is therefore obliged to renew its previous observation on the following points.

Articles 11 and 16 of the Convention. The Committee had noted the provisions of the Labour Code promulgated on 11 December 1996 (Act No. 38/PR/96) regarding the availability of suitable premises and reimbursement of transport costs in the absence of public transport (section 478). The Committee noted, however, that in practice there was a lack of functional premises and means of transport (vehicles and mopeds). In this regard, it noted the observations of the Trade Union Confederation of Chad (CST) which once again emphasized the lack of resources and scant interest granted to inspection. According to the CST, contrary to other administrations in the country, which have operating resources and means of transport, labour inspectors and labour supervisors do not have even the most elementary resources for carrying out inspection and supervisory visits. Noting that the Government had indicated in its reply that efforts to improve the situation of the labour inspection were continuing, the Committee again requests it to indicate the measures taken or envisaged to supply the labour inspection with sufficient means to enable it to undertake visits to enterprises, as often as is necessary, and to ensure the effective application of the relevant legal provisions in respect of the working conditions and protection of workers.

France (ratification: 1950)

The Committee notes the Government's detailed report concerning the application of the Convention. However, it regrets to note for the third consecutive year the failure to transmit the annual reports on the activities of the labour inspectorate sufficiently rapidly for them to be useful. The Committee notes that the Government refers, with regard to *Articles 7, 10, 13, 14 and 16 of the Convention*, in relation to the application of the Convention in practice, to the statistics and information contained in these reports, and it would therefore be grateful if the Government would take the necessary steps to ensure that in future these reports are published and transmitted to the ILO within the time limits set out in *Article 20*. Their publication and transmission within appropriate time limits would allow workers and employers and their organizations to be informed of them and react to the points which give rise to concern, while also permitting the Committee to assess developments in the application of the Convention on a factual basis.

Ghana (ratification: 1959)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation on the following matters.

Article 3, paragraph 1, and Articles 10 and 16 of the Convention. In its previous comments the Committee referred to the lack of human and material means at the disposal of the labour inspection and to the drop in labour inspection activities. It noted the indication that the reinforcement of labour inspection was among the Government's priorities. The Committee again expresses the hope that the Government will provide information on any further measures taken to this effect.

Articles 20 and 21. The Committee has previously noted the consolidated report by the Labour Department covering the period 1975-90, which gives some indications on establishment inspections, but does not provide all the information required under *Article 21*. The Committee expresses once again the hope that the Government will take the appropriate measures to ensure that annual inspection reports, containing precise information on all the matters enumerated in *Article 21*, are published and transmitted to the ILO within the time limits set out in *Article 20*. Referring also to its 1996 general observation under the Convention relating to the practical guidelines for collection, recording and communication of reliable data on occupational accidents and diseases contained in the 1996 ILO publication *Recording and notification of occupational accidents and diseases*, the Committee hopes that the Government will report on any progress in this regard.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Greece (ratification: 1955)

The Committee notes with satisfaction the diligence and close attention which the Government has brought to the implementation of the recommendations of the Committee established by the ILO Governing Body to examine the representation made by the Federation of the Associations of Public Servants of the Ministry of Labour of Greece regarding non-observance of *Article 4, paragraph 1*, and *Articles 6, 19 and 20 of the Convention*. The Committee particularly notes that, with the adoption of Act No. 2639 of 2 September 1998 on the establishment, inter alia, of a Labour Inspection, and Decree No. 136/99 regarding the Organization of the Labour Inspection, a labour

inspection system has been established under a central authority with responsibility to the Minister of Labour; this authority is assisted by a tripartite advisory body empowered to issue recommendations regarding the planning of action undertaken by the Labour Inspection and the annual activities reports and also to make proposals with a view to improving the efficacy of the labour inspection system; the labour inspection personnel is governed by the Public Service Statute; the inspection services must submit to the central authority, within the prescribed time limits, periodic reports on their activities, and an annual report drawn up by the central authority must be transmitted to the ILO no more than six months after the end of the period which it covers.

The Committee notes with interest that the new texts also give effect to *Articles 3, paragraph 1; 5(a) and (b); 7; 9; 10; 11; Article 12(1)(a), (b), (c)(i) and (ii); 13; 14; 16; 17 and 18.*

The Committee is addressing a request regarding certain points directly to the Government.

Jordan (ratification: 1969)

Further to its previous observation, the Committee notes the detailed information supplied in the Government's report as well as the texts of regulations and documents annexed thereto. It notes with particular satisfaction the adoption, within a reasonable time, of the texts implementing the Labour Code of 1996 in respect of occupational safety and health, that is: regulation No. 43 of 1998 on prevention and safety regarding industrial equipment, machinery and workplaces; regulation No. 7 of 1998 on the composition of occupational health and safety committees and supervisors and the directives applicable in the sectors concerned; the regulations concerning preventive and therapeutic medical care for workers employed in certain enterprises; the directives related to the protection of workers and establishments against hazards of the working environment; the Minister of Labour's decision on first-aid material and equipment for workers employed in establishments; the Minister of Labour's decision on training and places of training for those responsible for monitoring occupational safety and health. The Committee hopes that the Government will not fail to transmit information regularly on the effect of the implementation of these new texts on the activities of the labour inspection services.

The Committee also notes with satisfaction the information on the women employed in the labour inspection services and hopes that the proportion of women will increase, to give full effect to *Article 8 of the Convention.*

The Committee is also addressing a request regarding certain points directly to the Government.

Kenya (ratification: 1964)

The Committee notes with interest the activities undertaken by the labour inspection services in collaboration with the International Programme on the Elimination of Child Labour (IPEC) against child labour. In particular it notes that IPEC-allocated resources have enabled the development of a training programme for inspection personnel on the most appropriate methods of combating child labour and on the role of the labour inspectorate in reinforcing application of the relevant legislation through inspection visits, through action related to educational advice and through proceedings initiated in respect of infringements. The training also includes activities to inform employers, trade unions, non-governmental organizations and the population in general on the breadth of the problem of child labour and its consequences; seminars were organized with the Ministry of Labour working with IPEC and with the participation of other ministerial departments to inform the social partners and other interested parties and raise their awareness of the problem.

The Committee also notes with interest that the increase in numbers of inspection visits over the period covered by the Government's report is due not only to the implementation of the strategy to combat child labour developed in collaboration with IPEC, but to the determination of the Labour Department to increase both the quantity and quality of inspections and also to the enthusiasm of the public servants concerned, eager to improve their individual results. The Committee has learned from information sources available to the ILO of progress on the Bill on children, which includes provisions on the functions of labour inspectors and on their empowerment to initiate proceedings against employers violating the rights of children. These same sources of information indicate that the labour inspectors intervene in the formulation of district policy, especially as concerns child labour, by participating actively on the District Children Advisory Committees (DCACs) and the District Development Committees (DDCs). Moreover, the inspection reports drawn up by the inspectors on the basis of very detailed forms have enabled production of a manual used by the inspectors to train partners in the elimination of child labour. The Committee hopes that the Government will continue to supply information on progress achieved by the labour inspectorate in carrying out its main duties and, in particular, on the impact of preventive and coercive action undertaken by the labour inspectors in combating child labour.

The Committee is addressing a request on certain points directly to the Government.

Republic of Korea (ratification: 1992)

The Committee notes the Government's report received on 25 November 1999. It also notes the observations by the Korea Employers' Federation and the Federation of Korean Trade Unions.

In its observations the Korea Employers' Federation points out the inspector's function of technical information and advice needs to be reinforced through specific training or educational programmes *(Article 3 of the Convention)*. In addition, the federation, referring to the current activities of the Industrial Safety and Health Policy Deliberation Committee focusing on reviewing documents and reports in writing, indicates that the said committee needs to direct its activities toward in-depth discussions, coordination and cooperation among its tripartite members (*Article 5)*. The Federation of Korean Trade Unions for its part points to the low proportion of women in the labour inspection staff (59 women out of 711 labour inspectors). Noting that women account for 41 per cent of the employees, the federation stresses the need for the Government to make further efforts to increase the number of women inspectors *(Article 8)*.

The Committee will examine at its next session the information provided by the Government in its report in answer to its 1998 direct request as well as any comments the Government may wish to formulate on the issues raised by the Korea Employers' Federation and the Federation of Korean Trade Unions.

Kuwait (ratification: 1964)

The Committee notes the Government's report. It also notes the annual reports of the inspection services for 1996, 1997 and 1998.

Article 21(e) of the Convention. An examination of the voluminous statistics on labour inspection which were provided shows that the majority of the enterprises inspected in the field of occupational safety are in breach of the law, that employment accidents are very frequent and, in addition to the activities normally subject to the risk of employment accidents (construction work, building and transport), affect another category of activities designated by the terms "social services", "personal services" or "community services", in which 4,227 employment accidents occurred in 1996 and 2,991 in 1997, with an increase in the number of fatalities in 1997. The Committee also notes that the statistics concerning the cases brought to the courts show that no fines were imposed on those responsible for violations. The Committee would therefore be grateful if the Government would provide information on the nature of the activities covered by the terms "social services", "personal services" and "community services" and if it would indicate the manner in which it is envisaged to achieve the maximum compliance by employers with the legal and technical requirements relating to occupational safety and health. It also requests the Government to indicate whether the figures relating to workers violating security rules (71,308 in 1996 and 117,177 in 1997) correspond to violations by individual workers or the total workforce of enterprises in which violations have been committed.

Article 21(g). With reference to its earlier comments, the Committee asks the Government to ensure that the annual report of the inspection services contains statistics of occupational diseases.

Mauritania (ratification: 1963)

The Committee notes the Government's report covering the period ending 1 September 1998 in reply to its earlier comments. The Committee notes that the report is absolutely identical to the one which covered the previous period ending 1 September 1997 and therefore contains no reply to the new requests of the Committee. The Committee reminds the Government of the need to supply regular information on changes and progress achieved in the spheres covered by this Convention as well as specific information on the points raised in the Committee's comments, where necessary.

1. The Committee again stressed in its previous observation the essential nature of the principle of stability of employment and independence of labour inspectors as regards all changes of government and improper external influences. It therefore reiterated the hope that regulations would be adopted for inspection staff, compatible with the terms of *Article 6 of the Convention* and with section 22 of the Labour Code of 1963; a draft of such regulations has already been drawn up with ILO assistance. In view of the Government's persistent failure, for over 30 years, to act in this regard, the Committee requests the Government to take the necessary measures as soon as possible

to ensure correct application of the Convention, and to supply information on all measures taken accordingly.

2. The Committee notes once again that, since 1987 and despite numerous requests, the Government has not sent a single annual inspection report to the ILO. It again stresses that these reports are an essential means of determining how the inspection system functions in practice and of ensuring that workplaces are inspected as often and as thoroughly as is necessary. The Government is therefore requested to fulfil this obligation and to take the measures necessary to ensure, as soon as possible, that the annual reports on the activities of the inspection services containing all the information required by *paragraphs (a) to (g) of Article 21*, will be published and transmitted to the ILO, in conformity with *Article 20* of the Convention.

3. The Committee is addressing a request concerning certain points already raised in its previous direct requests directly to the Government.

[The Government is asked to report in detail in 2000.]

Mauritius (ratification: 1969)

The Committee notes the information provided by the Government in its report. It also notes the observations by the Federation of Progressive Unions of 28 October 1999 concerning the application of the Convention.

In its observations the Federation of Progressive Unions cites health hazards faced by workers from exposure to toxic substances such as benzene and asbestos as well as from dust, noise and environmental pollution. It refers to the virtual absence of medical examinations, the poor enforcement of the Occupational Safety and Health Act, the lack of a competent central authority, and the dispersion of responsibilities among different ministries with the resulting problems of monitoring. In addition, the Federation alleges that 12 factory inspectors for a workforce of 500,000 is inadequate, inspectors carrying out visits on dangerous sites lack sufficient protective equipment, and the wages for inspectors are not commensurate with their qualifications.

According to the Government's report, there were 55 labour inspector positions as of 31 May 1999, of which only 39 (including seven trainee inspectors) were filled. Likewise, there were 25 factory inspector positions monitoring occupational safety and health legislation, but only 13 positions were filled.

Taking note of the Government's intention to nominate additional inspection staff in the field of safety and health, the Committee hopes that the Government will provide information in its next report on any measures taken in this regard as well as its comments on the issues raised by the Federation of Progressive Unions.

Morocco (ratification: 1958)

The Committee notes the information provided by the Government in response to its previous observation and wishes to draw the Government's attention to the following points.

1. *Child labour and labour inspection.* The Committee notes the Government's response concerning the role of labour inspectors in verifying working conditions for children in general and, in particular, the working conditions of children employed in

carpet factories. Moreover, the Committee has also noted the letter addressed to the Director of the IPEC (ILO) programme dated 22 July 1998, referred to by the Government, and the appended documents. In particular, the Committee notes the relevance of Circular No. 6/SIT, respecting the working methods of labour inspectors in child labour, addressed to labour inspectors to ensure full compliance with legislation and greater protection of child labour. While noting the efforts undertaken to evaluate the working conditions of child labour in Morocco, the Committee nevertheless observes that the statistics communicated are incomplete, in particular concerning violations observed and notices served by the labour inspectorate. In areas such as Meknes, Benslimane, Beni Mellal, Khouribga, Rabat, Oujda, Casa-H. M. Aïn-Sebaa, El-jadida, Casa- Derb- soltan- El-Fida, Skhirat-Temara, serious violations of child labour legislation have been observed whereas no mention has been made of sanctions imposed, as envisaged under *Article 18 of the Convention*, which would seem to indicate the absence of or a certain apathy amongst the labour inspectorate. The Committee would be grateful if the Government would provide detailed information on these points in its next report and to regularly update the ILO on the supervisory activities of the labour inspectorate with regard to child labour legislation and to transmit the appropriate data.

2. *Annual labour inspection reports. Articles 20 and 21.* The Government states that the information which should be included in the annual inspection reports, as required under *Articles 20 and 21* of the Convention, is included in the annual report published by the Ministry of Labour, which, for technical and financial reasons has not been published for a number of years. The Committee refers to the 1985 General Survey on labour inspection and once again wishes to stress to the Government the great importance it attaches to the publication and communication to the ILO of annual inspection reports within the prescribed time limits. Annual inspection reports are not only essential from a national point of view to assess the practical results of the activities of labour inspectorates, they also serve to provide useful lessons for the future, information for employers, workers and their organizations, and to engender dialogue. Where annual inspection reports are not communicated regularly to the ILO, the ILO's supervisory bodies lack the relevant information to enable a correct evaluation of the degree of application of the Convention. The Committee notes the information to the effect that a centralized communication department has recently been created within the Ministry of Labour and shall be responsible for publishing an information sheet with the data required under *Article 21* of the Convention and requests the Government to specify the manner in which the publication of the information sheet will give effect to each of the provisions of the above Articles of the Convention and achieve the objectives of the annual inspection reports.

A request regarding certain points is being addressed directly to the Government.

New Zealand (ratification: 1959)

The Committee notes the Government's report. It also notes the observations by the New Zealand Employers' Federation (NZEF), those by the New Zealand Council of Trade Unions (NZCTU), and the Government's response to these observations. The observations of the NZEF relate to the activities of the Federation aimed at accident prevention and awareness-raising of employees on their rights under the New Zealand statutory minimum code. The NZCTU in its observations alleges, inter alia, that the number of labour inspectors remains inadequate; that the enforcement activities are reactive and insufficient to ensure that the rights provided for in the legislation are actually applied; that the manner in which investigations are carried out by the labour inspectorate frequently involves disclosure of the identity of the complainant; and that the number of prosecutions resulting in the imposition of penalties is small.

Taking into consideration also certain points raised in its previous comments, the Committee is addressing a direct request to the Government on the following matters: scope of the national system of labour inspection (public sector undertakings and extension to commercial undertakings); adequacy of the number of inspectors; regular versus complaint-based procedures; confidentiality of complaints; free entry of inspectors to premises; prosecution and sanctions; supervision and control by a central authority; and notification of occupational accidents and diseases.

Paraguay (ratification: 1967)

The Committee takes note of the Government's report received by the Office on 8 November 1999. It also notes the observations by the Latin-American Confederation of Labour Inspectors of June 1999 alleging in particular the inadequacy of the number of inspectors and of inspection visits which are conducted mainly following complaints and not following a pre-established programme, as well as the absence of means of transport and non-reimbursement of expenses.

The Committee notes that, according to the statistics transmitted by the Government, the number of inspectors (73) and visits (1,005) in 1998 is insufficient if compared to the number of undertakings (30,000) that should be visited. These statistics show that each inspector carried out an average of 1.15 inspection monthly, that is a decrease of about 30 per cent in relation to 1996. The Government acknowledges that inspection services lack means of transport but that certain expenses are reimbursed.

The Committee takes note with interest of the Manual on Labour Inspectorate, approved by resolution No. 159 of 30 April 1998, relating in particular to the functions and powers of inspectors and to the inspection procedures; its annex reflects the text of the ILO Conventions on labour inspectorate, as well as the essential national relevant provisions. It also notes a document of September 1999 sent by the Government on the preparation of programmed visits. Noting however that the Latin-American Confederation of Labour Inspectors refers to the absence of a manual or guide for inspectors, the Committee asks the Government to indicate the measures contemplated to propagate the abovementioned manual among the inspectors.

The Committee hopes that the various initiatives taken by the Government will contribute to improve the activities of the Labour Inspectorate and that it will take the necessary measures to make available to the Inspectorate the resources needed to increase the number of inspectors and the frequency of inspection visits, including programmed visits. It requests the Government to provide information on progress made.

The Committee is also addressing a request directly to the Government on a number of other points.

Portugal (ratification: 1962)

The Committee notes the Government's report as well as the observations made by the Confederation of Portuguese Industry (CIP).

1. *Article 3, paragraph 1(a), of the Convention. Enforcement of legal provisions relating to the employment of children and young persons.* In its previous comments the Committee asked the Government to provide information on the development and any intensification of the activities of the labour inspectorate relating to the enforcement of legal provisions respecting the employment of children and young persons, the cases of child labour detected and the penalties imposed. The Committee notes with interest the information provided by the Government in the 1998 Annual Report of the Inspectorate General of Labour (IGT) on child labour and in the preliminary report on the execution of the Plan for the Elimination of Exploitation of Child Labour (PEETI) of February 1999. The Annual Report by the IGT on child labour shows the evolution and impact of labour inspection activities in the field of child labour over a period of ten years during which the minimum age for admission to employment rose from 14 years to 15 in 1992 and to 16 in 1998. IGT's objectives are, among others, to contribute to the eradication of child labour by means of activities directed towards enterprises; to promote adequate conditions of work, particularly as concerns safety, hygiene and health at work; to place the fight against child labour in the framework of the phenomenon of clandestine work and illegal home work. The Committee notes from the Annual Report an intensification of labour inspection visits in the field of child labour control, which resulted in an increase of detected cases of illegal child labour (191 cases in 1998; 167 in 1997). The Committee hopes that the Government will continue to supply information on the activities of the labour inspection in regard to child labour.

2. *Article 3, paragraph 1(b), and Article 5. Supply of technical information and advice; collaboration.* The Committee notes that the CIP points to a marked improvement in the performance of the labour inspectorate. The CIP considers, however, that the labour inspectorate continues to be fundamentally of a repressive and punitive nature, and that it should strengthen its preventive aspects, particularly in view of the current proliferation of legal standards in the labour sphere. The Committee notes the Government's indication that all departments and branches of the IGT include an information service providing information and dealing with complaints; that inspectors may be accompanied on inspection visits by experts from employers' associations or trade unions, duly accredited by the IGT. The Government also indicates that the Institute for the Improvement and Inspection of Working Conditions (IDICT) has been carrying out sectoral campaigns on the prevention of occupational risks in civil engineering, agriculture and the textile industry, promoted and directed by the IDICT in collaboration with the social partners in the sectors concerned. The Committee requests the Government to continue to supply information on all developments in this regard.

3. *Articles 20 and 21. Annual reports.* The Committee requests the Government to provide on a regular basis the Annual Labour Inspection Report as required under *Article 20*, containing the information on the subjects listed in *Article 21*.

The Committee is addressing a request concerning the application of *Articles 10, 11, 14 and 16* of the Convention directly to the Government.

Sri Lanka (ratification: 1956)

The Committee notes with interest the comprehensive information provided by the Government in its report for the period up to 30 June 1999. It also notes the observations presented by the Employers' Federation of Ceylon in May, 1999; the observations made by the Government Service Labour Officers Association in its communications of May, September and November, 1999; and those by the Lanka Jathika Estate Workers' Union in May 1999. The Committee has also taken note of the discussion which took place in the Conference Committee on the Application of Standards during the 87th (1999) Session of the International Labour Conference in relation to the application of the Convention by Sri Lanka.

1. *Protection of children and young persons.* The Committee notes the Government's statement that child labour is not a regular practice in the organized sector and does not exist in export processing zones (EPZs). According to the Government, 12 instances of child labour were detected in the domestic sector following 508 complaints received after an awareness campaign. Training activities carried out under the ILO International Programme on the Elimination of Child Labour (IPEC) have strengthened the enforcement machinery. The Committee hopes that the Government will continue to provide information on the results achieved through the coordination of action of the different instances participating in the enforcement mechanisms including the labour inspection, and that it will report in particular on any assessment made and action taken in relation to child labour in the domestic sector.

2. *Labour inspection in labour processing zones.* The Committee notes the statement by the Government that labour laws are fully applied in EPZs; that tripartite consultations have taken place; and that separate statistics on the number of workplaces liable to inspection and the number of inspections carried out in each zone are not readily available, but that the Government would take action to compile and provide such statistics. The Committee hopes that the Government will be able in the near future to provide information in this respect.

3. *Labour inspection personnel.* The Committee notes that in its observations the Lanka Jathika Estate Workers' Union refers to the inadequacy of the labour inspection personnel to cope with the rapid increase of sophisticated modern industries and machinery; and the Employers' Federation of Ceylon states that workplaces are not inspected as often and as thoroughly as would be desirable and that inspection is generally limited to the formal sector where records are normally maintained. The Government Service Labour Officers Association, for its part, refers to the vacant positions in the inspection service (85) in comparison to the number of inspectors (277), drawing also attention to the recruitment of persons on a contract basis. The Committee takes note of the increase of the cadre of inspectors mentioned by the Government (two zonal senior assistant commissioners of labour, seven assistant commissioners of labour, six labour officers and one medical doctor) and on the envisaged action in this regard. The Committee hopes that the Government will report on any additional measures taken to enhance the cadre of labour officers by 150 as previously planned and that it will also indicate the specific reasons to hire 200 field officers instead of filling the existing vacancies in the cadre of the labour inspection.

The Committee is addressing a request concerning the application of *Articles 6, 7, 10, 16, 20 and 21 of the Convention* directly to the Government.

United Arab Emirates (ratification: 1982)

The Committee notes the Government's report and the information supplied in reply to its earlier comments. It also notes the annual reports on the activities of the labour inspectorate for 1995, 1996, 1997 and 1998.

In particular, the Committee notes with satisfaction the information concerning a substantial increase in the human and material means available to the labour inspection services, with a view to the correct application of *Articles 6, 10 and 11 of the Convention* and the launching of a certain number of studies on methods to promote occupational safety and health, and especially to improve the system of notification of occupational accidents, in conformity with *Article 14*. It also noted with interest, in respect of *Article 8*, the information regarding the distribution by sex within the labour inspectorate. The Committee expresses the hope that the Government will continue to make efforts to advance the application of the Convention and will supply information on the results achieved, in particular through the regular communication of copies of the annual inspection reports.

The Committee is addressing a request regarding certain points directly to the Government.

Uruguay (ratification: 1973)

The Committee notes the observations of the Latin-American Confederation of Labour Inspectors alleging the low level of remuneration of labour inspectors as compared to other state inspection services such as those supervising the payment of taxes and social security contributions *(Article 6 of the Convention)*; the insufficient number of labour inspectors and of the frequency of inspections *(Articles 10 and 16)*.

Noting that the Government's report has not been received, the Committee hopes that the Government will provide information in reply to the observations of the Latin-American Confederation of Labour Inspectors as well as to the previous detailed observation of the Committee on the following matters:

1. In its previous comments the Committee noted the adoption of several new occupational health and safety standards for the construction sector, which involve the Labour Inspectorate, including Decree No. 283/996 of 10 July and Ministerial Decision of 12 August 1996 laying down the obligation to submit safety and health studies and a safety and health plan to the General Labour and Social Security Inspectorate (IGTSS) before a work site is opened and at every stage of work. The Committee also noted the Emergency Plan for safety in the construction industry which was designed and developed by the IGTSS as part of the Annual Inspection Plan in response to the increase in the number of accidents in the construction industry. The Committee reaffirms its hope that the Government will pursue its efforts to strengthen the capacity of the labour inspectorate, in the construction sector as well as other sectors so that workplaces are inspected as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions and asks the Government to provide information on progress in this area *(Articles 3, 10 and 16)*.

2. The Committee has previously referred to the provision of sanctions and legal proceedings instituted or recommended by labour inspectors, to the notification of occupational accidents and diseases, and to the activities of the labour inspection in the

informal sector. The Committee hopes that the Government will provide information in these matters to which the Committee refers also in a direct request.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Algeria, Angola, Antigua and Barbuda, Argentina, Bahrain, Barbados, Brazil, Bulgaria, Burkina Faso, Burundi, Cape Verde, Central African Republic, Chad, Colombia, Comoros, Côte d'Ivoire, Democratic Republic of the Congo, Djibouti, Dominica, Finland, France, Gabon, Ghana, Greece, Grenada, Guinea, Guinea-Bissau, Haiti, Honduras, Iraq, Israel, Japan, Jordan, Kenya, Kuwait, Latvia, Lebanon, Libyan Arab Jamahiriya, Madagascar, Mali, Mauritania, Mauritius, Republic of Moldova, Morocco, Netherlands, New Zealand, Niger, Norway, Paraguay, Poland, Portugal, Romania, Rwanda, Sao Tome and Principe, Saudi Arabia, Singapore, Sri Lanka, Suriname, Swaziland, Switzerland, Syrian Arab Republic, United Arab Emirates, Uruguay.*

Convention No. 87: Freedom of Association and Protection of the Right to Organise, 1948

Antigua and Barbuda (ratification: 1983)

The Committee notes with regret that the Government's report has not been received.

It refers to its previous comments on the need to amend sections 19, 20, 21 and 22 of the Industrial Courts Act, 1976, and the extensive list of essential services in the Labour Code which can be applied to prohibit the right to strike at the request of one party. Under these provisions, a trade dispute may be referred to the court at any stage by the minister when he is informed of its existence, and by one party within ten days of such knowledge. Strikes are then prohibited under penalty of imprisonment. In addition, an injunction may be issued against a legal strike when the national interest is threatened or affected.

The Committee notes with interest the conciliatory/mediatory report in the case of *Employees at Federal Express* v. *Federal Express* dated 26 August 1999 sent by the Government. However, it would ask once again the Government to indicate in its next report the legislative measures taken or contemplated to ensure that the powers of the minister to refer a dispute to binding arbitration to ban a strike are restricted to strikes in essential services in the strict sense of the term, that is to say, only those the interruption of which would endanger the life, personal safety or health of the whole or part of the population or in case of an acute national crisis or in relation to public servants exercising authority in the name of the State, in order to bring its legislation into full conformity with the principles of freedom of association as soon as possible.

Azerbaijan (ratification: 1992)

With reference to its previous comments on the need to amend section 12 of the 1991 Act on strikes so as to restrict the cases where a strike may be declared illegal, the Committee notes the new Labour Code adopted on 1 July 1999. It notes with interest the provisions concerning the right to strike which define sectors qualified as essential services more restrictively, and provide for a compensatory mechanism to resolve collective disputes in sectors where strikes are prohibited (section 281 of the Labour Code).

The Committee nevertheless reiterates its previous comments on the need to expressly modify or repeal section 188-3 of the Criminal Code, which also contains major restrictions on the right of workers to engage in collective action with a view to disrupting public transport, associated with sanctions of up to three years' imprisonment.

Referring to its previous comments, the Committee underlines once again that the complete prohibition of trade unions from engaging in political activities pursuant to section 6(1) of Act No. 792 on trade unions is incompatible with the right to organize.

The Committee requests the Government to indicate in its next report the measures taken or envisaged to bring the legislation into conformity with the requirements of the Convention on these two points.

Belize (ratification: 1983)

The Committee notes the information provided by the Government in its last report.

The Committee recalls the need to amend the Settlement of Disputes (Essential Services) Act of 1939, as amended by Ordinances Nos. 57, 92, 51 and 32 in 1973, 1981, 1988 and 1994 respectively, which empower the authorities to refer a dispute to compulsory arbitration to prohibit a strike or to terminate a strike in such services as postal, monetary, financial and revenue collecting services and transport services and services in which petroleum products are sold, which are not "essential services" in the strict sense of the term. The Committee had noted the Government's statement in a previous report to the effect that discussions were under way regarding the amendment of the list of essential services.

Referring to its previous comments, the Committee notes with satisfaction that Ordinance No. 117 of 13 November 1998 excludes all revenue collecting services of the Government from the field of application of the Settlement of Disputes (Essential Services) Act.

Nevertheless, the Committee expresses its firm hope that the Government will pursue its amendment of the list of essential services so that restrictions on the right to strike apply only to the essential services in the strict sense of the term, whose interruption would endanger the life, personal safety or health of whole or part of the population and to public servants exercising a function of authority in the name of the State. It requests the Government to indicate in its next report the measures taken or envisaged in this regard and to provide a copy of amendments bringing national legislation into full conformity with the principles of freedom of association at an early date.

Bolivia (ratification: 1965)

The Committee notes the Government's report. The Committee also notes the comments submitted in June 1999 by the Bolivian Central of Workers (COB) regarding the dismissal of workers after a strike held to demand application of an arbitration decision.

The Committee takes due note of the information supplied by the Government in reply to the comments it has made for many years which concerned the following:

(1) The exclusion of agricultural workers from the scope of the General Labour Act and thus from the rights and guarantees of the Convention in regard to agricultural workers (section 1 of the General Labour Act and Regulatory Decree). The Committee noted that, according to the Government, section 4 of the final provisions of the Act of the National Institute of Agricultural Reforms provides for these workers to be included in the scope of the General Labour Act and that, with ILO assistance, there had been consensus with the social partners on a draft supreme decree on the regulations on salaried workers which would abolish section 1 of the Act in question. The Committee requests the Government to send it copies of the Act and of the draft supreme decree in question.

(2) The refusal of the right to organize for public servants (section 104 of the General Labour Act). The Committee notes that, according to the Government, the Statute on the Public Service is currently being elaborated and will confer the right of association, assembly and absence of transfer. The Committee requests the Government to send it a copy of the Statute in question.

(3) The requirement that 50 per cent of the workers in an enterprise give their agreement in order to constitute a trade union (section 103 of the General Labour Act). The Committee notes the Government's information that it is prepared to make the requested amendment but that there is political and ideological opposition from the Bolivian Central of Workers. The Committee nevertheless considers that section 103 has the indirect result of making it impossible to establish another organization representing workers' interests in an enterprise. The Committee requests the Government to amend its legislation to bring it into conformity with the principles of freedom of association, seeking a solution acceptable to the social partners, for example by embodying the concept of more representative trade unions.

(4) The wide powers of supervision conferred on the labour inspectorate over trade union activities (section 101 of the General Labour Act). The Committee notes the Government's information that a decree has been promulgated that regulates participation of Ministry of Labour inspectors in the deliberations of trade unions. Under this decree, the inspectors shall take part only at the express request of the duly established interested party. The Committee requests the Government to send it a copy of this decree.

(5) The requirement of Bolivian nationality for eligibility to trade union office (section 138 of the implementing decree of the General Labour Act) and of having permanent employment in the enterprise (sections 6(c) and 7 of Legislative Decree No. 2565 of June 1951). The Committee notes the Government's statement that the requirement of having permanent employment in the enterprise is ineffective and non-applicable but that provisions are being prepared in relation to both requirements for appropriate incorporation in the new Bolivian legislation. The Committee hopes that the sections in question will be repealed in the near future.

(6) The possible dissolution of trade union organizations by administrative decision (section 129 of the decree issuing the General Labour Act of 1943). The Committee notes with interest the adoption of Supreme Decree No. 25421 of

11 June 1999 providing that a ministerial decision dissolving a trade union organization must be transmitted automatically to the labour courts. The Committee requests the Government to indicate whether the ministerial decision must be held in suspense until the judicial authority has given its decision.

(7) Restrictions in respect of the right to strike (a majority of three-quarters of the workers of the enterprise to call a strike) (section 114 of the Act and section 159 of the issuing decree); the unlawful nature of general and sympathy strikes which are liable to penal sanctions (sections 1 and 2 of Legislative Decree No. 02565 of 1951); the unlawful nature of strikes in banks (section 1(c) of Supreme Decree No. 1959 of 1950); and the recourse to compulsory arbitration by decision of the executive power to put an end to a strike (section 113 of the General Labour Act). The Committee notes that the Government states that this matter will be handled during the current updating of labour legislation and has announced that the process has already begun. The Committee hopes that in the near future the sections in question will be repealed.

(8) The Committee requests the Government to send its observations on the comments submitted by the COB.

The Committee expresses the firm hope that the Government will communicate in its next report any information on concrete measures adopted to amend the legislation which has been the subject of comments for many years.

Bosnia and Herzegovina (ratification: 1993)

The Committee notes with regret that for the fourth year in succession the Government's first report has not been received.

The Committee requests the Government to provide detailed information in reply to the questions raised in the report form concerning the application of this fundamental Convention.

The Committee also requests the Government to provide the text in force of the Labour Code as well as the texts governing freedom of association, the right to organize, the settlement of collective disputes and the right to strike.

Burkina Faso (ratification: 1960)

The Committee notes the information contained in the Government's report. With reference to its previous comments concerning the need to repeal the provisions of Zatu No. AN-VI-008/FP/TRAV of 26 October 1988 establishing the general conditions of service of the public service, which require public servants to respect the revolutionary order under penalty of disciplinary sanctions (sections 6, 7, 9, 36 and 46 of the Zatu), the Committee notes with satisfaction that the above provisions have been effectively repealed by the adoption of Decree No. 98-205/PRES promulgating Act No. 013/98/AN of 28 April 1998 issuing the rules governing jobs and employees in the public service. The Committee takes also due note of sections 44 and 45 of the new Act which confer freedom of association, freedom of opinion and the right to strike on public servants.

The Committee also drew the Government's attention to its earlier comments on sections 1 and 6 of Act No. 45-60/AN of 25 July 1960, under which public servants may be required to perform their duties in order to ensure continuity of administration and the safety of persons and property. With regard to the provisions on the Government's authority to requisition in the event of a strike by public servants, the Committee recalls that it would be advisable to restrict the public authorities' power to requisition to cases in which the right to strike may be limited or prohibited, namely where public servants exercise authority in the name of the State in services the interruption of which would endanger the life, personal safety or health of the whole or part of the population or in the event of an acute national crisis (see paragraphs 152, 158 and 159 of the 1994 General Survey on freedom of association and collective bargaining). **In this connection, the Committee asks the Government to provide information in its next report on the application in practice of this provision and to indicate the measures taken or envisaged to amend sections 1 and 6 of Act No. 45-60/AN of 25 July 1960 regulating the right to strike of civil servants and state officials.**

Cameroon (ratification: 1960)

The Committee notes the information supplied by the Government in its report. It also notes the statements made by the Minister of Labour to the Conference Committee in June 1999 and the detailed discussion that ensued. The Committee notes that in its report the Government merely reiterates its previous statements to the effect that the procedure to amend the legislative texts is still under way and that it will not fail to keep the Committee informed of relevant amendments in the near future. The Government further indicates that, although the texts have not yet been amended, freedom of association exists in practice: there are several unions in the public sector and they are affiliated to international organizations.

Nevertheless, the Committee recalls that its previous comments concerned the following points:

1. *Article 2 of the Convention (previous authorization).* For several years, the Committee has pointed out that Act No. 68/LF/19 of 18 November 1968, under which the existence in law of a trade union or occupational association of public servants is subject to the previous approval of the Minister for Territorial Administration, and section 6(2) of the Labour Code of 1992, under which persons forming a trade union that has not yet been registered and who act as if the said union has been registered shall be liable to prosecution, are not consistent with *Article 2* of the Convention. **The Committee once again urges the Government to take the necessary measures in the near future to ensure that workers, including public servants, have the right to form organizations of their choice, *without previous authorization*.**

2. *Article 5 (prior approval for affiliation to an international organization).* **The Committee again recalls that section 19 of Decree No. 69/DF/7 of 6 January 1969 provides that trade unions or occupational associations of public servants may not join a foreign occupational organization without obtaining prior approval from the minister responsible for "supervising fundamental freedoms". The Committee noted previously the Government's earlier statements to the effect that this Decree is issued under Act No. 68/LF/7 of 19 November 1968 and will be brought into conformity with the Convention once the new Act on civil servants' unions is promulgated. The Committee once again urges the Government to take the necessary measures, in the very near future, to abolish prior approval for affiliation to an international organization, which is contrary to *Article 5* of the Convention.**

The Committee again expresses the firm hope that the Government will take all necessary measures, in the very near future, to bring its legislation in full conformity with the Convention, and asks it to provide a detailed report on such measures.

Central African Republic (ratification: 1960)

The Committee notes that the Government's report has not been received. It recalls that its previous comments related to the following points:

1. *Article 3 of the Convention (right of workers' organizations to elect their representatives in full freedom).* The Committee recalls that sections 1 and 2 of Act No. 88/009 of 19 May 1988 on freedom of association and the protection of trade union rights, amending the Labour Code, provide that any person having lost the status of worker cannot either belong to a trade union or take part in its leadership or administration, and that trade union officers must be members of a trade union. The Committee repeats its request that excessive restrictions regarding the requirement that trade union officers must belong to the same occupation should be relaxed in order to ensure that qualified persons, such as those employed by the trade unions or pensioners, may carry out union duties.

2. *Articles 5 and 6 of the Convention (the right of workers' organizations to establish federations and confederations of their own choosing).* The Committee had noted that the new Constitution of 14 January 1995 enshrined the possibility of trade union pluralism and freedom of association (article 10). While noting that, according to the Government, section 30 of Act No. 61/221 introducing the Labour Code provides that trade unions can affiliate to form associations, the Committee recalls that section 4 of Act No. 88/009 of 19 May 1988, amending the Labour Code, still provides that trade unions constituted in federations and confederations may group together in a single central national union. Given that the Government had indicated in its previous reports that legislation would be adopted to implement the constitutional provisions, the Committee once again requests it to communicate the relevant texts as soon as they are adopted repealing the reference to a single central national union contained in Act No. 88/009.

3. *Articles 3 and 10 of the Convention.* Furthermore, the Committee draws the Government's attention to section 11 of Ordinance No. 81/028 of 1984 concerning the Government's power of requisition in the event of a strike, when so required in the "general interest". The Committee considers it necessary to restrict powers of requisition to cases in which the right to strike may be limited or even prohibited, namely in services the interruption of which would endanger the life, personal safety or health of the whole or part of the population, or in a situation of acute national crisis (see General Survey on freedom of association and collective bargaining, 1994, paragraphs 152 and 159).

The Committee requests the Government to keep it informed in its next report of developments in the situation in both law and practice and to indicate the measures taken to amend sections 1, 2 and 4 of the Act of 1988 and section 11 of the Ordinance of 1984 in order to bring them into conformity with the requirements of the Convention.

Colombia (ratification: 1976)

The Committee notes the Government's report. It also notes the comments submitted by the Textile Industry Workers' Trade Union of Colombia (SINTRATEXTIL) regarding the Textiles Río Negro company's non-compliance with the obligation to retain trade union subscriptions and requests the Government to send its comments on the matter.

The Committee notes the Government's indication that on 18 March 1999 the Ministry of Labour and Social Security submitted to the Congress of the Republic a Bill (which was adopted on first reading in the Senate on 9 June 1999 and to which the Single Confederation of Workers of Colombia submitted amendments) which derogates or amends the following provisions commented on by the Committee for many years:

- section 365(g) of the Labour Code on the requirement, in order for a trade union to be registered, that the labour inspector must certify that there is no other union (repealed);
- section 380(3) which provides that "any member of a trade union executive who has been responsible for the dissolution of a union as a sanction may be denied the right of trade union association in any form for up to three years (…)" (repealed);
- section 384 on the requirement that, in order to form a union, two-thirds of its members must be Colombian (repealed);
- section 388(1)(a) on the need to be of Colombian nationality to hold executive office in a trade union;
- section 388(1)(c) on the requirement to have normally exercised the activity, trade or position covered by the trade union in order to be a trade union official;
- section 388(1)(f) which provides that a person must not have been given a serious sentence unless he or she has been rehabilitated, nor sued for ordinary offences at the time of election *(amended to allow the trade union to set out in its statutes the requirements, in addition to membership of the union, for holding executive office in a trade union)*;
- section 422(1)(c) on the need to have exercised the activity, occupation or position covered by the trade union in order to hold office in a federation or confederation;
- section 422(1)(f) which provides that a person must not have been given a serious sentence, unless he or she has been rehabilitated, nor sued for ordinary offences at the time of election *(amended to allow the trade union to set out in its statutes the requirements, in addition to active membership of the trade union, federation, or confederation, for holding executive office in a federation or confederation)*;
- section 432(2) on the need to be of Colombian nationality in order to be a member of a delegation submitting to an employer the list of claims that are being made *(amended to exclude the requirement to be of Colombian nationality)*;
- section 444, last subsection, on the presence of the authorities at general assemblies convened to vote on referral to arbitration or on the calling of a strike *(amended to allow the trade union the choice of having the labour authorities present or not)*; and
- section 448(3) which provides that "when a strike is called, the Minister of Labour and Social Security, ex officio or at the request of the trade union or trade unions

representing the majority of workers at the enterprise, or if not, of the workers gathered at a general meeting, may, once a strike is called, submit to a ballot by all workers in the enterprise whether they wish to submit the remaining dispute to arbitration" *(amended so that the Minister of Labour and Social Security is no longer able automatically to submit to a ballot by the workers of the enterprise the submission to a court of arbitration).*

Nevertheless, the Committee notes that section 9 of the Bill in question provides for amendment of section 486 on the control of internal management of trade unions and union meetings by officials, permitting that when there is a request from an interested party, the officials of the Ministry of Labour can call before them trade union leaders or members to require them to provide relevant information on their work, and to present books, registers, plans and other documents and obtain copies of or extracts from the latter. The Committee considers that the amendment is not in conformity with the provisions of the Convention since control by the administrative authority should be possible only when there exist reasonable grounds that an offence has been committed in order to carry out an investigation as a result of a representation or if there have been allegations of misappropriation or when requested by a certain percentage of members, with the Ministry of Labour always retaining the power to request information annually on the financial state of the trade unions. The Committee considers that the text of section 486 should be amended as indicated.

Furthermore, the Committee notes that the Bill mentioned does not refer to other legislative provisions relating to the exercise of the right to strike which have also been the subject of comments for many years:

- section 417(1), which provides that "federations and confederations have the right to recognition of a legal personality and have the same functions as trade unions, except for the calling of a strike, which lies solely within the competence, when so authorized by the law, of the respective trade unions or groups of workers directly or indirectly concerned";
- the prohibition of strikes, not only in essential services in the strict sense of the term, but also in a very wide range of public services which are not necessarily essential (new section 450(1)(a) of the Code and Decrees Nos. 414 and 437 of 1952; 1543 of 1955; 1593 of 1959; 1167 of 1963; 57 and 534 of 1967);
- the power of the Minister of Labour to refer a dispute to arbitration when a strike lasts more than a specific period (section 448(4), of the Code);
- the possibility of dismissing trade union officers who have intervened or participated in an unlawful strike (new section 450(2) of the Code), including when the strike is unlawful due to failure to comply with excessive requirements such as those mentioned in the aforegoing subparagraphs.

The Committee also notes in relation to the exercise of the right to strike the conclusions of the Committee on Freedom of Association in Case No. 1916, approved by the Governing Body at its March 1999 session, relating to the dismissal of trade union leaders, members and workers for taking part in a strike which was declared illegal in application of the legislative provisions which allow the Ministry of Labour to declare a strike illegal. On this matter the Committee recalls that a declaration of illegality of a strike should be made by the judicial authority or an independent authority, not by the Ministry of Labour.

The Committee requests the Government to take measures to repeal or amend the provisions mentioned and to inform it in its next report on any measure adopted on the matter.

Congo (ratification: 1978)

The Committee notes that the Government's report reiterates the information sent in 1996.

The Committee recalls that its previous comments focused largely on the need to amend the legislation on the minimum service "indispensable to safeguard the general interest" to be maintained in the public service, which is organized by the employer, wherein refusal to participate is deemed to constitute serious misconduct (section 248-16 of the Labour Code), in order to limit the minimum service to operations which are strictly necessary to meet the basic needs of the population and within the framework of a negotiated minimum service.

The Committee noted that the Government had undertaken to review this provision in consultation with the social partners with a view to modifying it or adopting an implementing text. It once again asks the Government to keep it informed of any developments in this matter and to provide a copy of the text amending the provision in the near future.

With regard to the fact that the Labour Code contains no provisions authorizing workers and employers to include in collective agreements a clause on the deduction of trade union dues from the wages of workers with the latter's written consent, the Committee noted that, according to the Government, this question was on the agenda of the National Labour Advisory Commission and that, in cooperation with the social partners, a procedure would be adopted which took account of the requirements of the Convention. The Committee once again asks the Government to keep it informed of any developments in this matter in its future reports.

Djibouti (ratification: 1978)

The Committee notes with regret that the Government's report has not been received.

However, it notes the interim conclusions of the Committee on Freedom of Association in Cases Nos. 1851, 1922 and 2042 (see 318th Report of the Committee on Freedom of Association, approved by the Governing Body in November 1999, paragraphs 188-207).

The Committee notes that the Committee on Freedom of Association observes with great concern that, despite the promises made by the Government to the direct contacts mission in January 1998, no tangible progress has been achieved since then in the restoration of freedom of association in full. Like the Committee on Freedom of Association, the Committee of Experts urges the Government to provide detailed information on the measures taken to ensure that dismissed trade union leaders who so request shall be reinstated in their posts and employment and to ensure that Djibouti workers may elect their union representatives freely and democratically in the trade union elections, in their companies and at the trade union confederations' ordinary congresses.

In addition, the Committee recalls that its previous comments concerned the need to repeal or amend the following provisions:

- section 5 of the Act on Associations, as amended in 1977, to ensure that prior authorization for the establishment of associations may not be imposed on trade unions;
- section 6 of the Labour Code, which limits the holding of trade union office to Djibouti nationals, in order to allow foreign workers to hold trade union office, at least after a reasonable period of residence in the country;
- section 23 of Decree No. 83-099/PR/FP of 10 September 1983, establishing the conditions governing the right to organize and the right to strike of public servants, which confers on the President of the Republic the power to requisition public servants who are indispensable to the life of the nation and to the operation of essential public services. The Committee asks the Government to limit this power of requisitioning to public servants exercising authority in the name of the State or in essential services in the strict sense of the term, that is, those the interruption of which would endanger the life, personal safety or health of the whole or part of the population, or in the event of an acute national crisis.

The Committee once again urges the Government to restore freedom of association as rapidly as possible in law and in practice and requests the Government to keep it informed of any positive developments in this respect.

Dominica (ratification: 1983)

The Committee notes the information contained in the Government's report.

The Committee recalls that its previous comments referred to the need to amend legislation so that restrictions on the right to strike would only be imposed in the case of essential services, meaning the services the interruption of which would endanger the life, personal safety or health of the whole or part of the population, or in case of an acute national crisis. The Committee noted that the banana, citrus and coconut industries were included in the schedule of essential services annexed to Act No. 18 of 1986 on industrial relations, making it possible to stop a strike by compulsory arbitration, and that sections 59(1)(b) and 61(1)(c) of this Act empowered the Minister to refer disputes to compulsory arbitration if in his opinion serious questions were in cause.

The Committee notes that the Government reiterates in its last report that the draft bill drawn up with the assistance of the ILO, which envisaged the deletion of the abovementioned sectors from the schedule of essential services and limited the powers of the competent minister to refer a dispute to compulsory arbitration to end a strike, is not yet complete.

The Committee firmly hopes once again that measures will be taken at an early date to bring legislation on industrial relations into full conformity with the principles of freedom of association. It asks the Government to supply information in its next report on all progress in this area and to transmit a copy of the legislation in question.

Ethiopia (ratification: 1963)

The Committee takes note of the Government's report as well as the statement of the Government's representative to the Conference Committee in 1999 and the discussion that followed.

The Committee recalls its serious concern with regard to the trade union situation and in particular in relation to the Government interference in trade union activities.

Article 2 of the Convention. The Committee notes from the Government's report that only one trade union may be established in an undertaking where the number of workers is 20 or more, in accordance with section 114 of Labour Proclamation No. 42-1993. The Committee insists that a legislation which provides that only one trade union may be established for a given category of workers runs counter to the standards expressly laid down in the Convention. It therefore requests the Government to take the necessary measures in order to guarantee that trade union diversity remains possible in all cases.

Articles 2 and 10. In its previous comments, the Committee, noting that section 3(2)(b) of Labour Proclamation No. 42-1993 excludes teachers from its scope of application, requested the Government to indicate how teachers' associations could promote their occupational interests. The Committee requests once again the Government to indicate the precise provisions permitting teachers' associations to promote their occupational interests, and to forward to the Committee any draft legislation governing teachers' associations.

The Committee notes that despite being informed by the Government in its report of 1994 that a new law was expected to be adopted "in the very near future" to address the concerns that had been raised by the Committee with respect to the exclusion of state administration officials, judges and prosecutors from Proclamation No. 42, the Government has not since provided any information on the progress of this law. The Committee would once again ask the Government to indicate whether judges and prosecutors are entitled to associate to further and defend their occupational interests and requests it to inform the Committee of the status of any law related to this matter.

Article 4. The Committee had noted with concern that the Ministry of Labour cancelled the registration of the former Confederation of Ethiopian Trade Unions (CETU) pursuant to the powers vested in it under section 120 of the Labour Proclamation. The Committee requests once again the Government to take measures to amend the legislation to ensure that an organization shall not be liable to be dissolved or suspended by administrative authority, and to keep it informed of any progress in this regard.

Articles 3 and 10. The Committee had noted that the Labour Proclamation contains broad restrictions on the right to strike: the definition of essential services contained in section 136(2) is too broad and should in particular not include air transport and railway services, urban and inter-urban bus services and filling stations, bank and postal services (section 136(2)(a), (d), (f) and (h)); sections 141(1), 142(3), 151(1), 152(1), 160(1) and (2) allow labour disputes to be reported to the ministry for conciliation and binding arbitration by either of the disputing parties. The Committee therefore requests once again the Government to amend its legislation so that the ban on strikes is limited to essential services in the strict sense of the term and disputes may be submitted to the

Labour Relations Board for binding arbitration only if both parties agree, or in relation to essential services whose interruption would endanger the life, personal safety or health of the whole or part of the population or in case of an acute national crisis.

The Committee urges the Government to communicate in its next report the measures taken or contemplated to amend its legislation and practice in order to comply with the requirements of the Convention.

Ghana (ratification: 1965)

The Committee notes the information contained in the Government's report. It recalls that its previous comments concerned the need to modify sections 11(3) and 12(1) of the Trade Union Ordinance of 1941, and section 3(4) of the Industrial Relations Act No. 299 of 1965 which, respectively, impose a single trade union system and grant the Registrar extensive powers regarding the registration of trade unions and the approval of negotiators, contrary to *Articles 2 and 3 of the Convention.* The Committee had noted the recommendations of the National Advisory Committee on Labour (NACL) to amend the sections in question.

The Committee notes that the Government reiterates in its last report that tripartite consultations are in progress to codify labour laws to ensure their compatibility with the Convention. It firmly hopes that measures will be taken at an early date to bring the legislation into conformity with the Convention and requests the Government to indicate in its next report the measures effectively taken in this connection.

The Committee had also noted that the Emergency Powers Act, 1994 (Act No. 472), allows prohibition in particular of public meetings and processions in areas which had been under a state of emergency. In this connection the Committee recalls that recourse to a state of emergency may not be made to justify restrictions on the civil liberties that are essential to the proper exercise of trade union rights, except in circumstances of extreme gravity (acts of God, serious disruption of civil order, etc.) and on condition that any measures affecting the application of the Convention are limited in scope and duration to what is strictly necessary to deal with the situation in question (see General Survey on freedom of association and collective bargaining, 1994, paragraph 41).

The Committee requests the Government to keep it informed of all measures taken or envisaged in order to put its legislation into conformity with the principles of freedom of association.

The Committee is also addressing a request directly to the Government.

Grenada (ratification: 1994)

The Committee notes with regret that, for the fourth year in succession, the Government's first report has not been received.

The Committee requests once again the Government to provide detailed answers to the questions contained in the report form on the application of the Convention, which was transmitted by the International Labour Office. The Committee requests the Government in particular to provide it as rapidly as possible with information on the legislative situation and on the application in practice of the measures adopted to give effect to the Convention on freedom of association.

Guatemala (ratification: 1952)

The Committee notes the information supplied by a Government representative to the Conference Committee in 1999 and the discussion which took place subsequently. The Committee also notes that, according to the information of the Government, the ILO has provided it with a draft to address the comments of the Committee, and the tripartite committee concerning international labour issues is preparing draft reforms by consensus to put before Congress. In this context, the Committee reiterates its earlier comments which refer to the following questions:

- the strict supervision of trade union activities by the Government (section 211(a) and (b) of the Labour Code);
- the requirement of being Guatemalan to establish a provisional trade union executive committee or to be elected as a trade union officer; to be an active worker at the time of election; and that there are at least three members of the executive committee able to read and write (sections 220(d) and 223(b));
- the requirement for the members of the provisional trade union executive committee to make a sworn statement that they have no criminal record and that they are active workers in the enterprise (section 220(d));
- the obligation to obtain a two-thirds majority of the workers of the enterprise or workplace (section 241(c)) and of the members of a trade union (section 222(f) and (m)) to be able to call a strike;
- the prohibition of a strike or suspension of work by agricultural workers during the harvests, with a few exceptions (sections 243(a) and 249) and of workers of enterprises or services whose interruption would, in the Government's opinion, seriously affect the national economy (sections 243(d) and 249);
- the possibility of calling on the national police to ensure continuity of work, in the event of an unlawful strike (section 255) and the detention and trial of persons who try to publicly call an illegal strike or suspension of work (section 257);
- the imposition of a prison sentence ranging from one to five years for persons who carry out acts intended to paralyse or disrupt the functioning of enterprises which contribute to the economic development of the country with a view to jeopardizing national production (section 390(2) of the Penal Code);
- the imposition of compulsory arbitration without the possibility of having recourse to strike action in public services which are not essential services in the strict sense of the term, in particular public transport and services related to the supply of fuel and the prohibition of solidarity strikes (section 4(d), (e) and (g) of Decree No. 71-86, amended by Legislative Decree No. 35-96 of 27 May 1996).

The Committee expresses the firm hope that the Government will, as soon as possible, take the measures necessary to bring the legislation into full conformity with the provisions of the Convention, and requests it to provide information in its next report on all measures adopted in this regard.

Guinea (ratification: 1959)

The Committee notes that the Government's report has not been received and recalls that its previous comments concerned the following points:

The Committee had previously observed that, while public transport and communication do not constitute an essential service, they appear on the list contained in Order No. 5680/MTASE/DNTLS/95 of 24 October 1995 which defines and determines essential services in the context of the right to strike. The Committee again requests the Government to indicate, should the parties not manage to reach an agreement, the measures envisaged for a joint or independent body to examine rapidly and without formalities the difficulties raised by the definition of a minimum service (see General Survey on freedom of association and collective bargaining, 1994, paragraph 161).

In addition, the Committee recalls that arbitration at the request of one of the parties, in this case the employer (sections 342, 350 and 351 of the Labour Code), is likely to restrict the exercise of the right to strike, contrary to *Article 3 of the Convention*. The Committee requests the Government to take measures in order to ensure that arbitration cannot be imposed at the request of only one of the parties to a dispute.

The Committee also requests the Government to continue to provide, in its future reports, information on the application in practice of sections 342, 350 and 351 of the Labour Code on compulsory arbitration and Order No. 5680/MTASE/DNTLS/95 of 24 October 1995 which defines and determines essential services in the context of the right to strike.

Haiti (ratification: 1979)

The Committee notes the Government's report and its intention to bring its legislation into conformity with the Convention with ILO technical assistance.

The Committee recalls that, for many years, its comments have referred to the need:

- to repeal or amend section 236bis of the Penal Code, which requires that government approval be obtained to establish an association of more than 20 persons; section 34 of the Decree of 4 November 1983, which confers wide powers on the Government to supervise trade unions; and sections 185, 190, 199, 200 and 206 of the Labour Code, which impose compulsory arbitration at the request of one party to end a strike thus imposing excessive restrictions on the right to strike;
- to give legal recognition to the right to organize of public servants, in order to bring its legislation into conformity with section 35(3) and (4) of the 1987 Constitution, which provides constitutional guarantees of the freedom of workers in the public and private sectors and recognizes their right to strike, while no specific legislation has been adopted in this respect.

The Committee firmly hopes that the Government, understanding the need to amend these provisions, will take the necessary measures in the near future.

Honduras (ratification: 1956)

The Committee notes the Government's report. The Committee also notes the comments made by the Single Confederation of Workers of Honduras (SCWH) regarding the obstacles to the establishment of trade unions contained in the legislation.

The Committee recalls that its previous comments referred to the following provisions of the Labour Code:

- the exclusion from the scope of the Labour Code and thus from the rights and guarantees of the Convention of workers in certain agricultural or stock-raising enterprises (section 2(1));
- the prohibition of more than one trade union in a single enterprise, institution or establishment (section 472);
- the requirement of more than 30 workers to constitute a trade union (section 475);
- the requirement that trade union organizations must include more than 90 per cent Honduran membership (sections 475 and 504);
- the requirement that the officers of a trade union, federation or confederation must be Honduran (section 510(a) and 541(a)), be engaged in the corresponding activity (section 510(c) and 541(c)) and be able to read and write (section 510(d) and 541(d));
- restrictions on the right to strike:
  - requirement of a two-thirds majority of the votes of the total membership of the trade union organization in order to call a strike (sections 495 and 563);
  - ban on strikes being called by federations and confederations (section 537);
- the power of the Ministry of Labour and Social Security to end disputes in the petroleum production, refining, transport and distribution services (section 555(2));
- the need for government authorization or a six-month notice for any suspension or stoppage of work in public services that do not depend directly or indirectly on the State (section 558);
- submission to compulsory arbitration, without the possibility of calling a strike for as long as the arbitration award is in force (two years), for collective disputes in public services which are not essential in the strict sense of the term (sections 554(2) and (7), 820 and 826).

In this connection, regretting that the Government in its report does not refer specifically to the comments it has been making for many years, the Committee once again expresses the firm hope that the Government will take measures without delay to amend the abovementioned legislative provisions, so as to bring them into conformity with the requirements of the Convention. The Committee requests the Government to provide information in its next report on all measures adopted in this regard.

Kuwait (ratification: 1961)

The Committee notes the Government's report. It recalls that it has commented for many years on the need to repeal or amend the following provisions of the Labour Code (Act No. 38 of 1964), which are contrary to the Convention.

Article 2 of the Convention

- The exclusion from the scope of the Code, and thus from the protection afforded by the Convention, of state and public service workers, fixed-term workers employed by the State under the regulations concerning the employment of Indian and Pakistani citizens, domestic workers and employees holding similar positions, and seafarers (section 2 of the Code).

- The requirement of at least 100 workers to establish a trade union (section 71) and ten employers to form an association (section 86).
- The requirement of five years' residence in Kuwait for non-national workers before they may join a trade union, and the requirement that a certificate of moral standing and good conduct be obtained in order to join a trade union (section 72).
- The requirement that a certificate be obtained from the Minister for the Interior stating that he has no objection to any of the founding members, before a trade union may be established, and the requirement that at least 15 members must be Kuwaiti in order to found a trade union (section 74).
- The prohibition to establish more than one trade union per establishment or activity (section 71).

Articles 5 and 6

- The restriction imposed on trade unions to join federations only where the activities are identical, or where industries are producing the same goods or supplying similar services (section 79).
- The prohibition for organizations and their federations to establish more than one general confederation (section 80).
- The single trade union system established under sections 71, 79 and 80, read together.

Article 3

- The ban on the right to vote and to be elected for unionized workers not of Kuwaiti nationality, except to elect a representative having the right only to voice their opinions before the union officers (section 72).
- The prohibition on trade unions from engaging in any political or religious activity (section 73).
- The wide powers of supervision of the authorities over trade union books and registers (section 76).
- The reversion of trade union assets to the Ministry of Social Affairs and Labour in the event of dissolution (section 77).

The Committee again urges the Government to indicate in its next report the measures taken to bring the provisions of the legislation mentioned above into conformity with the requirements of the Convention and recalls the possibility of ILO assistance, if necessary, in the drafting of its legislation.

Noting the Government's reference to the draft law to modify the Labour Code (Act No. 38 of 1964), the Committee recalls in this respect that its earlier comments dealt with the discrepancies between the draft law and the Convention in respect of restrictions on the right of all workers and employers, whether they be nationals or foreigners, public servants, workers, domestic workers or seafarers, to establish professional organizations of their own choosing for the defence of their interests, in accordance with *Article 2* of the Convention. The Committee had specifically highlighted the incompatibility of provisions associating numerical conditions and nationality in the establishment of a professional organization, as follows:

- the requirement of at least ten Kuwaiti employers in order to form an association (section 101 of the draft law);
- the requirement that at least 15 founding members must be Kuwaiti in order to establish a trade union (section 102(1) of the draft law).

The Committee also noted possibilities of interference on the part of the public authorities in trade union activities, as follows:

- the requirement that a certificate of good conduct be obtained by each founding member from the Ministry of the Interior before a trade union may be established (section 103(e));
- the reversion of trade union assets to the Ministry of Social Affairs and Labour in the event of dissolution (section 110).

The Committee hopes that the draft law will rapidly be adopted and promulgated. It again requests the Government to take the necessary measures in the near future to ensure that the legislation on which it has been commenting for several years is brought into conformity with the requirements of the Convention.

Kyrgyzstan (ratification: 1992)

The Committee notes with regret that, for the sixth consecutive year, the Government's first report has not been received. It hopes that a report will be provided for examination by the Committee at its next session and that the report will contain detailed replies to the questions raised in the report form, which has been forwarded to the Government on the application of the Convention.

Latvia (ratification: 1992)

With reference to its previous comments, the Committee notes with satisfaction the adoption on 29 April 1999 of the Act on Employers' Organizations and Associations which reduces to five the number of people required to constitute an employers' organization (section 2), enshrines the principle of their independence (section 5) and their right to affiliate with international organizations of employers (section 6).

The Committee is also raising a number of points in a request addressed directly to the Government.

Liberia (ratification: 1962)

The Committee welcomes the information provided by the Government in its report.

The Committee recalls that its previous comments concerned the need to amend or repeal:

- Decree No. 12 of 30 June 1980 prohibiting strikes;
- section 4601-A of the Labour Practices Law prohibiting agricultural workers from joining industrial workers' organizations;
- section 4102, subsections 10 and 11, of the Labour Practices Law providing for the supervision of trade union elections by the Labour Practices Review Board; and

- section 4506 prohibiting the workers of state enterprises and public service from organizing.

The Committee had recalled that these provisions were contrary to *Articles 2, 3, 5 and 10 of the Convention.*

The Committee notes with interest the indication in the Government's report that it has submitted Decree No. 12 prohibiting strikes and all of the remaining provisions above to the national legislature for their repeal. It further notes that the Government adds that it has received assurances from the legislature that these repealing Acts would be passed in its current session. The Committee requests the Government to indicate in its next report the progress made in this regard and to supply copies of any and all of the repealing Acts as soon as they have been adopted.

Madagascar (ratification: 1960)

The Committee notes the information in the Government's report and recalls that its previous observations concerned the following points:

1. *The right of workers, without distinction whatsoever, including seafarers, to establish and join organizations.* The Committee recalls that the Merchant Shipping Code currently in force lacks any provisions specifically granting seafarers the right to organize. It notes that a restructuring of the Code is nearing completion and that the Government will submit a copy thereof with its next report. The Committee hopes that this restructuring will take account of all rights related to seafarers' right to organize.

2. *Requisitioning of persons.* The Committee noted that conditions giving rise to the right to requisition, provided for under section 21 of Act No. 69-15 of 15 December 1969 regarding the requisition of persons and goods, which allows the requisitioning of workers in particular where a sector of national life or a part of the population is endangered, are too broad to be compatible with the principles of freedom of association. The Committee recalls that requisition as a means to end a strike is authorized only in the case of essential services in the strict sense of the term, that is those whose interruption would endanger the life, personal safety or health of the whole or part of the population or in the case of public servants exercising authority in the name of the State or in the event of an acute national crisis. The Committee takes due note of the proposed modifications to section 21 presented by the Government to allow a fuller application of the Convention. The Committee notes, however, the inclusion of certain services, for example radio and television broadcasting, post and banking, whose interruption does not endanger the life, personal safety or health of the population.

3. *The right of workers to establish organizations without previous authorization.* The Committee notes that, according to the Government, the constitution, organization and operation of trade unions, and the exercise of the right to organize, are still governed by Ordinance No. 60-133 of 3 October 1960, on associations. The Committee recalls that by virtue of its section 1(1), Ordinance No. 60-133 does not apply to professional associations and trade union organizations. **The Committee trusts that in conformity with *Article 2 of the Convention*, workers will be able to establish trade union organizations without previous authorization, on depositing of their by-laws to the Minister of Labour. It requests the Government to provide copies of such implementing texts of section 7 of the 1995 Labour Code as may have been adopted.**

The Committee hopes that the Government will take account of its observations in the adoption of the measures envisaged, and asks to be kept informed, in the Government's next report, of the steps taken in this regard.

Mali (ratification: 1960)

The Committee notes the information contained in the Government's report.

The Committee recalls that its previous comments addressed the need to amend section 229 of the Labour Code of 1992 so as to restrict the Minister of Labour's authority to impose arbitration in order to end strikes liable to cause an acute national crisis. The above provision allows the Minister of Labour to impose arbitration not only for disputes involving essential services, the interruption of which is likely to endanger the life, health or safety of the population, which is compatible with the principles of freedom of association, but also for disputes liable to "compromise the normal operation of the national economy or concerning a vital industrial sector".

The Committee notes that in its last report the Government reiterates its undertaking to conduct an in-depth tripartite discussion on the requested amendment with a view to finding a solution compatible with the purpose of the Convention.

The Committee expresses the firm hope that measures will be taken in the near future to make the legislation fully consistent with the principles of freedom of association and asks the Government to provide detailed information in its next report on the status of the tripartite consultations and on measures actually taken to amend section 229 of the Labour Code.

Malta (ratification: 1965)

The Committee takes note of the information provided by the Government in its report and notes in particular that a subcommittee of the Malta Council for Economic Development is still examining the Industrial Relations Act with the aim of formulating the amendments needed to improve voluntary procedures for the settlement of industrial disputes. The Government also indicates that it will inform the Committee once discussions on the amendments have concluded.

The Committee regrets that discussions on the amendments to the Act in question have been continuing now for over ten years and can only reiterate the discrepancies between the legislation (sections 27-34 of the 1976 Industrial Relations Act) and the Convention relating to the discretionary powers of the Minister to impose compulsory arbitration whereas such recourse should be restricted to the following cases: (a) public servants exercising authority in the name of the State; (b) essential services, namely those the interruption of which would endanger the life, safety or health of the whole or part of the population; (c) situations of acute national crisis; or (d) cases in which both parties request arbitration.

The Committee requests the Government to keep it informed in its next report of discussions in the Malta Council for Economic Development and expresses again the firm hope that the Government will take the necessary measures in the very near future to bring its legislation into greater conformity with the Convention.

Mauritania (ratification: 1961)

The Committee notes that in its report the Government repeats the information it sent in 1996 and provides no new information. It notes with regret that the expected amendments to the Labour Code have still not been adopted.

Article 3 of the Convention. 1. *Right of organizations to elect their representatives in full freedom.* Referring to the need to amend section 7 of the Labour Code as amended by Act No. 93-038 of 20 July 1993, under which only Mauritanians have the right of access to trade union office, the Government indicates in its report that sections 273 of the draft Labour Code provides that, in order to be eligible for trade union office, workers must either be of Mauritanian nationality or, if they are foreigners, show that they have exercised in Mauritania and for five consecutive years the occupation whose interests the union defends. The Committee nonetheless recalls that it would be more appropriate to amend the legislation so that it enables organizations to choose their officers in full freedom and allow foreign workers to take up trade union office, at least after a reasonable period of residence in the host country (see General Survey on freedom of association and collective bargaining, 1994, paragraph 118).

2. *Right of organizations to organize their activities and to formulate their programmes freely in order to promote and defend the interests of their members.* The Committee recalls that its previous comments concerned the prohibition of strikes in the event of referral to compulsory arbitration (sections 39, 40, 45 and 48 of Book IV of the Labour Code currently in force), and notes that the amendment to the Code which was to lift these restrictions has still not been adopted. The Committee notes the Government's statement that the right of workers' organizations to resort to strike action in the defence of the social, economic and occupational interests of their members will be ensured. The Committee hopes that the amendment to the Labour Code will confine the prohibition of strikes solely to situations where the Committee has considered it acceptable, that is in essential services in the strict sense of the term, i.e. whose interruption would endanger the life, safety or health of the whole or part of the population or in the event of an acute national crisis.

The Committee asks once again the Government to provide as rapidly as possible a copy of the amendments to the Labour Code which are relevant to the above comments. It also asks the Government to provide information in its next report on actual progress made in applying the Convention.

Mexico (ratification: 1950)

The Committee notes the Government's report, as well as the comments of the Mexican Confederation of Chambers of Industry (CONCAMIN) and the Confederation of Mexican Workers (CTM) on the application of the Convention.

1. *Trade union monopoly imposed by the Federal Act and the Constitution on State Employees.* The Committee recalls that its comments have for many years referred to the following provisions of the Federal Act on State Employees and the Constitution:

(i) the prohibition of the coexistence of two or more unions in the same state body (sections 68, 71, 72 and 73);

(ii) the prohibition of a trade unionist from leaving the union to which he or she belongs (section 69);

(iii) the prohibition of the re-election of trade union officers (section 75);

(iv) the prohibition of unions of public servants from joining trade union organizations of workers or rural workers (section 79);

(v) the extension of the restrictions applicable to trade unions in general to the single Federation of Unions of Workers in the Service of the State (section 84); and

(vi) the imposition by law of the trade union monopoly of the National Federation of Banking Unions (section 23 of the Act issued section 123(B) XIII*bis* of the Constitution).

The Committee welcomes Judgment No. 43/1999 of 27 May issued by the Supreme Court of Justice of the Nation on single trade unions, which sets forth as three fundamental aspects of freedom of association: (1) the right of workers to join trade unions or establish new ones; (2) freedom not to join a particular trade union or any trade union at all; and (3) freedom to withdraw from an association. Furthermore, the decision provides that the imposition of a single trade union for a government department is contrary to the right to freedom of association provided under section 123(B) X of the Federal Constitution of the Republic.

In this context, while the decision issued of the Supreme Court goes in the direction of the requirements of the Convention, the Committee expresses the firm hope that the Government will take steps to repeal or amend the legislative provisions which have given rise to its comments for many years. The Committee requests the Government in its next report to provide information on all measures adopted in this respect.

2. *Prohibition of foreigners from being members of trade union executive bodies (section 372(II) of the Federal Labour Act).* The Committee again regrets to note that, although it has for many years commented on this point, the Government confined itself to transmitting the CTM observations which consider that there was no contradiction with the Convention in this regard. The Committee expresses, however, the firm hope that the Government will take measures to amend the provision cited, to enable foreign workers to take up trade union office, at least after a reasonable period of residence in the country, or where reciprocity conditions exist, at least for a certain proportion of trade union officers. The Committee requests the Government to inform it in its next report of all measures taken in this respect.

3. *The right to strike of employees in banking institutions belonging to the public sector.* The Committee recalls that for many years it has referred to restrictions on the right to strike of employees in banking institutions belonging to the public sector (section 5 of the Act issued under article 123(B) XIII*bis* of the Constitution); and in particular to the limitation of the exercise of the right to strike, through general and systematic violations of the rights set out in article 123(B) of the Constitution (section 94 of the Federal Act on State Employees). In this connection, the Committee notes the information from the CTM that workers in State banking institutions are governed by article 123(A) of the Constitution, while commercial banking is part of the private sector and, consequently, the legislation for the public sector is not applicable to these workers. The Committee again requests the Government to take steps to repeal the provisions that are contrary to the Convention so as to bring the legislation into conformity with the

practice and principles of freedom of association. The Committee requests the Government to inform it in its next report on all measures adopted in this regard.

4. *Right to strike of state employees.* The Committee recalls that its previous comments also referred to the requirement of two-thirds of workers in the public body concerned to call a strike (section 99(II) of the Federal Act on State Employees). The Committee regrets that the Government has submitted no comments in this connection in view of the length of time it has been recalling that this requirement is excessive for public servants who do not hold positions of state authority in the name of the State, and that a simple majority of votes cast should suffice to call a strike. It requests the Government to take measures to amend the provision cited and inform it in its next report of all positive developments in this connection.

Republic of Moldova (ratification: 1996)

The Committee notes with satisfaction the provisions of the 1994 Constitution and the Labour Code as amended as at 1998 which provide for the right of workers to establish and join trade unions (article 42 of the Constitution; section 2(5) of the Labour Code), which lays down the right of workers to establish organizations of their own choice without prior authorization (section 232 of the Labour Code) and the right to strike (article 45 of the Constitution).

The Committee is raising a number of points in a request addressed directly to the Government.

Myanmar (ratification: 1955)

The Committee notes with regret that the Government's report has not been received.

The Committee notes the written and oral information provided by the Government representative to the Conference Committee in 1999, as well as the discussion which took place therein and the resulting special paragraph in the Conference Committee's report for continued failure to implement the Convention.

In its previous comments, the Committee had noted that the drafting of a new State Constitution was under way, as well as the review and redrafting of old labour laws, including the Trade Unions Law. The Committee had recalled, however, that the Government has referred to the drafting of new labour legislation and a new Constitution for over five years now. It deplores that no specific progress or developments have been communicated to the Committee in this regard.

The Committee recalls that it has been commenting upon the continued failure to apply this Convention, both in law and in practice, for over 40 years. In its previous comments, it had urged the Government, in particular, to adopt the necessary measures to ensure the right of workers to establish, without previous authorization, and to join, subject only to the rules of the organizations concerned, first-level unions, federations and confederations of their own choosing for the furtherance and defence of their interests and to ensure the right of first-level unions, of federations and of confederations to affiliate with international organizations *(Articles 2, 5 and 6 of the Convention).*

The Committee must once again reiterate the urgent need for the Government to adopt the necessary measures to ensure fully the right to organize, and the right to affiliate with international organizations, without impediment. Furthermore, it once again asks the Government to furnish with its next report a copy of the most recent draft revision of the Trade Unions Law so that it might assess the draft's conformity with the Convention.

Namibia (ratification: 1995)

The Committee takes note of the information provided by the Government in its report.

1. *Articles 3 and 10 of the Convention. Right to strike in export processing zones.* The Committee recalls that its previous comments concerned the need to repeal the provision in the Export Processing Zones Amendment Act, 1996, which prohibited any employee from taking action by way of, or participating in, a strike in an export processing zone (EPZ), an action for which the worker is liable to disciplinary penalty or dismissal (section 8(2)(a) and (b)). In its latest report, the Government acknowledges that the prohibition of industrial actions in EPZs could be incompatible with the provisions of the Convention and has therefore referred this issue to a tripartite Labour Advisory Council for advice and corrective measures. While taking note of this information, the Committee requests the Government to indicate in its next report any progress on measures taken or envisaged in order to ensure that workers in export processing zones will not be penalized for strike action taken in defence of their interests.

2. *Articles 2 and 3. Application of the Labour Act and the provisions of the Convention in EPZs.* With regard to section 8(10) of the EPZ Amendment Act, 1996, which provides that the provisions of that section shall be deemed to have been repealed if not re-enacted by Parliament by June 2001, the Committee notes the Government's statement according to which the re-enactment of the prohibition of strikes and lockouts was not advisable and should thus disappear automatically in 2001. Nevertheless, with regard to the general application of the Labour Act to EPZs after the year 2001, the Committee requests once again the Government to indicate the measures taken or envisaged to ensure that workers in EPZs will continue to be afforded the full protection of the Convention, including the full exercise of the right to organize, beyond this period.

Niger (ratification: 1961)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous comments which read as follows:

> 1. *Article 4 of the Convention. Dissolution by administrative authority.* The Committee had noted with concern that the Government dissolved by administrative authority the National Trade Union of Customs Officials of Niger (SNAD) on 20 March 1997. Recalling that, under *Article 4* of the Convention, trade unions shall not be liable to be dissolved by administrative authority, the Committee urges the Government to indicate whether the SNAD has been re-established since that time in accordance with its rights.
>
> 2. *Articles 3 and 10. Rights of workers' organizations to strike in defence of their economic, social and professional interests.* The Committee had noted that section 9 of Order No. 96-009 of 21 March 1996 also provides that in exceptional cases arising as a result of the need to preserve the general interest, all state employees, or those of territorial

authorities, may be requisitioned. In the view of the Committee, the scope of this provision should be restricted only to cases in which a work stoppage may give rise to an acute national crisis or to public servants exercising authority in the name of the State, or also to essential services in the strict sense of the term, i.e. services the interruption of which would endanger the life, personal safety or health of the while or part of the population (see 1994 General Survey on freedom of association and collective bargaining, paragraphs 158 and 163). The Committee requests, once again, the Government to indicate in its next report the measures taken or envisaged to guarantee, in law and in practice, respect for the principles of freedom of association in this regard. It also requests the Government to provide it, in future with copies of the requisition orders adopted in cases of strikes.

Nigeria (ratification: 1960)

The Committee notes the information provided in the Government's latest report. It also takes note of the conclusions of the Committee on Freedom of Association in Cases Nos. 1793 and 1935 (see 315th Report, approved by the Governing Body at its 274th Session, March 1999).

With reference to its previous comments concerning non-interference of government officials in trade union affairs, the Committee notes with satisfaction the information provided by the Government to the Committee on Freedom of Association to the effect that the workers of the Nigerian Labour Congress have freely elected their representatives in a Congress which took place on 27 January 1999 (see 315th Report, paragraph 19).

The Committee further notes with satisfaction the adoption in 1999 of the Trade Unions (Amendment) Decrees Nos. 1 and 2 which have modified previous amendments to the Trade Unions Act along the lines previously indicated by the Committee and in particular concerning: the restructuring of industrial unions; the redefinition of the term "member of a trade union" to include persons either elected or appointed by a trade union to represent workers' interests; restoring appeals to appropriate courts in respect of registrations cancelled by administrative authority; and the repeal of the sanction of five years' imprisonment for unauthorized international affiliations.

Noting however that a certain number of discrepancies between the legislation and the provisions of the Convention still remain, the Committee wishes further information from the Government on the points below.

Article 2 of the Convention (the right of workers to form and join organizations of their own choosing)

(a) Legislatively imposed trade union monopoly and the restructuring of industrial unions under Decree No. 4 of 1996

The Committee notes with interest the adoption of the Trade Unions (Amendment) Decree No. 1 of 1999 which deletes all restricting references to "twenty-nine" unions in the Trade Unions Act as previously amended and adds to the list in the schedule to the Act a reference to "any other workers' trade union registered under this Act". The Committee continues to note however that under section 3(2) of the Trade Unions Act no trade union shall be registered to represent workers or employers in a place where a trade union already exists. Furthermore, the Committee notes that section 33(2) of the Act which deems all registered trade unions to be affiliated to the Central Labour Organisation which is named in the law (section 33(1)) has not been amended. The Committee requests the Government to indicate the measures envisaged to amend the Trade Unions Act in order to ensure that workers have the right to form and join the union of their own choosing at all levels outside the trade union specifically mentioned in the law if they so wish.

(b) Organizing in export processing zones

Noting that section 4(e) of the Export Processing Zones Decree, 1992, sets forth the functions and responsibilities of the Export Processing Zones Authority to include the resolution of disputes between "employers and employees" (rather than workers' organizations or unions) in the zone and that, under section 13(1), no person shall enter, remain in or reside in a zone without the prior permission of the Authority, the Committee requests the Government to indicate the measures taken to ensure that zone workers may form and join the organization of their own choosing in the furtherance and defence of their occupational interests and, in particular, the measures taken to ensure that representatives of workers' organizations may have reasonable access to the zones so that trade unions can communicate with workers in order to apprise them of the potential advantages of unionization.

(c) Further obstacles

The Committee recalls that its previous comments also concerned the following discrepancies in the Trade Unions Act in respect of the right for workers to form organizations of their own choosing without previous authorization:

- section 3(1) of the Act sets the excessively high requirement of 50 workers to form a trade union;
- section 11 of the Act denies the right to organize to employees in the Customs and Excise Department, the Immigration Department, the Prison Services, the Nigerian Security Printing and Minting Company, the Central Bank of Nigeria and Nigerian External Telecommunications.

It once again requests the Government to indicate the measures envisaged to amend the Trade Unions Act in respect of these matters in order to ensure full compliance with *Article 2*.

Article 3 (the right to elect officers in full freedom, to organize their administration and activities and to formulate programmes without government interference)

(a) The right to strike

1. Export processing zones. **The Committee notes that section 18(5) of the Export Processing Zones Act provides that there shall be no strikes or lockouts for a period of ten years following the commencement of operations within a zone. The Committee recalls that such a prohibition is incompatible with the provisions of the Convention (see General Survey on freedom of association and collective bargaining, 1994, paragraph 169) and requests the Government to indicate the measures taken or envisaged to ensure that workers, including those in export processing zones, have the** right to establish organizations of their own choosing and that such organizations have the right to organize their activities and to formulate their programmes without interference by the public authorities.

2. *Conditional check-off facilities.* The Committee notes that section 5 of the Trade Unions (Amendment) Decree No. 26 of 1996 which makes check-off payments to unions conditional upon the inclusion of "no-strike" clauses in collective agreements has not yet been repealed but has only been amended by Decree No. 1 to refer also to "no lock-out" clauses. The Committee considers that such a legislative requirement hinders the right of workers' organizations to formulate their programmes and activities without interference by the public authorities. It therefore requests the Government to indicate the measures taken or envisaged to allow workers' and employers' organizations to bargain freely on such an issue.

(b) Further obstacles

The Committee recalls its previous comments concerning the need to amend:

- the possibility of imposing compulsory arbitration (other than in cases of essential services in the strict sense of the term and for public servants exercising authority in the name of the State or in the case of acute national crisis) under penalty of a fine or six months' imprisonment for any person failing to comply with a final award issued by the National Industrial Court (section 7 of Decree No. 7 of 1976 amending the Trade Disputes Act);
- the broad powers of the Registrar to supervise the union accounts at any time (sections 39 and 40 of the Trade Unions Act) to ensure that such a power is limited to the obligation of submitting periodic financial reports, or in order to investigate a complaint.

The Committee requests the Government to indicate the measures envisaged to amend these provisions in order to ensure full conformity with the principles of freedom of association.

Article 4 (cancellation of registration by administrative authority)

While noting with interest the amendment introduced by Decree No. 1 of 1999 which restores the possibility of appealing administrative decisions to cancel registrations to the appropriate courts, the Committee continues to note that the amendment made in 1996 to section 7(9) of the Trade Unions Act giving broad authority to the Minister to revoke the certification of any registered trade union due to "overriding public interest" has been maintained. Recalling that organizations of workers and employers should not be liable to dissolution by administrative authorities, the Committee requests the Government to amend the Act by repealing the broad authority of the Minister to cancel registration so as to bring the legislation into full conformity with this Article of the Convention.

Articles 5 and 6 (international affiliation)

With reference to its previous comments, the Committee notes with interest the Trade Unions (International Affiliation) (Amendment) Decree No. 2 of 1999 which amends Decree No. 29 of 1996 by providing generally that any trade union may affiliate with any international labour organization or trade secretariat in accordance with the Decree and repeals the provision of the earlier Decree which had provided for sanctions of up to five years' imprisonment for any unapproved international affiliation. The Committee does note, however, that Decree No. 2 of 1999 still provides that an application for affiliation must be submitted with details to the Minister for approval. While noting that a refusal of an application for affiliation can be appealed to the National Industrial Court, the Committee considers that a provision which requires ministerial approval for international affiliation on the basis of a detailed application infringes on the rights of workers' organizations to affiliate with international workers' organizations freely. It therefore requests the Government to indicate the measures taken or envisaged to amend this Decree so that workers' organizations may affiliate with the international workers' organization of their own choosing free from interference by the public authorities.

Pakistan (ratification: 1951)

The Committee notes the observations made by the All Pakistan Federation of Trade Unions (APFTU). It further takes note of the interim conclusions and recommendations made by the Committee on Freedom of Association in Case No. 2006 (see 318th Report, paragraphs 324-352, approved by the Governing Body in November 1999).

I. Articles 2 and 4 of the Convention (the right of workers to establish and join organizations of their own choosing and the right not to be liable to administrative dissolution or suspension

1. Suspension of trade union rights for workers of the Pakistan Water and Power Development Authority (WAPDA) and the exclusion of the Karachi Electric Supply Corporation (KESC) workers, as well as forestry, railway and hospital workers from the Industrial Relations Ordinance

The Committee notes the conclusions of the Committee on Freedom of Association in respect of Case No. 2006 and, like the Committee on Freedom of Association, expresses its deep regret at the measures taken in Presidential Ordinance No. XX of 1998 (repromulgated under Presidential Ordinance No. V of 1999) resulting in the de-registration and effective suspension of the WAPDA Hydro Electric Central Labour Union, contrary to *Article 4* of the Convention. The Committee requests the Government to indicate whether the effects of this suspension have now elapsed and, if not, to take the necessary measures urgently to restore full trade union rights to the WAPDA union. Furthermore, noting that the WAPDA union has filed an appeal against the decision of the Deputy Registrar to cancel its registration, the Committee requests the Government to provide a copy of this judgement as soon as it is handed down.

The Committee also notes Presidential Ordinance No. VIII of 1999 which would appear to exclude workers of the Karachi Electric Supply Corporation from the purview of the 1969 Industrial Relations Ordinance (IRO). Given that the IRO sets forth, among others, the conditions for trade union registration, this ordinance violates *Article 2* of the

Convention. Recalling furthermore its previous comments concerning the exclusion of hospital workers, forestry and railway workers from the provisions of the IRO, the Committee trusts that the Government will take the necessary measures in the near future to ensure the full right to organize for all the abovementioned categories of workers.

2. Export processing zones

With reference to its previous comments concerning the denial of the rights guaranteed by the Convention for workers in export processing zones (section 25 of the Export Processing Zones Authority Ordinance, 1980 and section 4 of the Export Processing Zone (Control of Employment) Rules, 1982), the Committee recalls the Government's indication in its previous report that the exclusion of EPZs was not a permanent feature, but that it was unlikely that the Export Processing Zones Authority provision would be lifted before 2001. Recalling that the provisions of this Convention should apply to all workers, without distinction, including workers in export processing zones, the Committee hopes that the Government will be able to indicate in its next report the progress made in ensuring the rights guaranteed by this Convention to workers in EPZs.

3. High-level public servants and the restricted definition of "worker" in the Industrial Relations Ordinance

Concerning the exclusion of public servants of Grade 16 and above from the term "worker" in the Industrial Relations Ordinance (IRO), 1969 (section 2(viii) (special provision)) and thus from the possibility of forming trade unions, the Committee requests the Government to indicate the measures taken or envisaged to ensure that public servants of Grade 16 and above enjoy the right to organize.

As concerns the further exclusion from the definition of workers in the IRO of persons employed in an administrative or managerial capacity whose wages exceed 800 rupees per month (far below the national minimum wage), the Committee once again requests the Government to indicate the progress made in amending this definition so as to ensure that only those with true managerial and supervisory capacity may eventually be excluded from workers' unions.

II. Article 3 (the right of workers' organizations to elect their officer freely and to organize their activities and formulate their programmes without government interference)

1. Union of Civil Aviation Employees, as well as the employees of the Pakistan Television and Broadcasting Corporations (PTVC and PBC)

With reference to its previous comments, the Committee recalls that the Supreme Court, while restoring the right of these employees to organize and to bargain collectively, also declared that these employees could not take industrial action in the absence of statutory backing. The Committee once again requests the Government to indicate the measures taken or envisaged to ensure that these employees, to the extent that they do not fall within essential services in the strict sense of the term, may take industrial action without penalty.

2. *Public utility services and essential services*

The Committee recalls that its previous comments concerned section 33 of the Industrial Relations Ordinance which permits the Government to issue an order prohibiting strikes in respect of any of the public utility services and sections 4 and 7 of the 1952 Pakistan Essential Services (Maintenance) Act which sanctions with up to one year imprisonment any person engaged in any employment declared applicable by the Act who disobeys a government order not to depart from specified areas. The Committee notes that this legislation has been and is still applied to services which cannot be considered to be essential in the strict sense of the term (that is, services the interruption of which would endanger the life, personal safety or health of whole or part of the population and to public servants exercising authority in the name of the State (see General Survey on freedom of association and collective bargaining, 1994, paragraphs 158-160). By way of example the Committee notes that postal services, railways and airways still figure on the list of public utility services in the Schedule to the IRO (1998 edition of the Labour Code). The Committee urges the Government to amend the Pakistan Essential Services (Maintenance) Act and section 33 of the Industrial Relations Ordinance and the schedule thereto in the near future so as to ensure that the prohibition of industrial action will be limited to essential services or to public servants exercising authority in the name of the State.

In its previous comments, the Committee also pointed out that, under section 32(2) of the IRO, the Government may prohibit any strike lasting more than 30 days. It therefore further urges the Government to take the necessary measures to amend this section to ensure that the prohibition of strike action may occur only in respect of the abovementioned services and restricted group of public servants and in the event of an acute national crisis (see General Survey, op. cit., paragraph 152).

3. *Amendment to the Banking Companies Ordinance*

The Committee recalls that its previous comments concerned the amendment to section 27-B of the Banking Companies Ordinance, 1962, which restricted the possibility of becoming a member or officer of a bank union only to employees of the bank in question, under penalty of up to three years' imprisonment. The Committee requests the Government to indicate the measures taken to make this restriction more flexible either by admitting as candidates persons who have previously been employed in the occupation concerned, or by exempting from the occupational requirement a reasonable proportion of the officers of an organization.

4. *Amendment to the Anti-Terrorism Act of 1997*

The Committee notes with concern the promulgation of Presidential Ordinance No. IV of 1999 which amends the Anti-Terrorism Act by, among others, inserting a provision concerning the creation of civil commotion, punishable under the Act by up to seven years' imprisonment. Civil commotion is defined under section 7A to include the commencement or continuation of illegal strikes, go-slows or lockouts. The Committee would first recall that it considers that sanctions for strike action should be possible only where the prohibitions in question are in conformity with the principles of freedom of association. Furthermore, if measures of imprisonment are to be imposed at all they should be justified by the seriousness of the offences committed (see General Survey, op. cit., paragraph 177). The Committee therefore requests the Government to indicate whether this Ordinance is still applicable and, if so, to consider amending the text so as to ensure that disproportionate penal sanctions are not applied even to illegal industrial action under national law which would be in conformity with the principles of freedom of association.

Paraguay (ratification: 1962)

The Committee notes the Government's report.

1. The Committee has been commenting for many years on the need for public servants, be they from the central administration or from decentralized units, to enjoy the guarantees provided under the Convention. The Committee had already noted that by virtue of Act No. 496 of 24 August 1995 public sector workers are covered by the Labour Code and enjoy the right to form trade unions and to strike, until the adoption of an Act specifically governing the subject, and that a draft of the Status of Civil Servants and Public Employees which allows these workers to form trade unions has been prepared. In this connection the Committee notes the Government's indication that the Statute in question has been submitted to Congress with a favourable opinion from the Parliamentary Committee. The Committee hopes that it will shortly be adopted and asks the Government to inform it in its next report on all progress in this regard.

2. In its earlier observation the Committee commented on Decree No. 16769/93, which regulates in a detailed and meticulous manner the electoral process, and it noted that the Supreme Court of Justice had declared this Decree unconstitutional. In this connection the Committee notes the Government's indication that the Decree in question is not in force, since not only was it declared inapplicable by the Supreme Court, but the field is now regulated by the new Electoral Code, No. 834/96. The Committee requests the Government to provide it with a copy of the new Electoral Code.

3. The Committee also commented on certain provisions of the Code of Labour Procedure (sections 284, 291, 293, 302 and 308) regarding referral of collective dispute to compulsory arbitration, and the dismissal of workers who stop work before conciliation and compulsory arbitration procedures have been suspended. In this connection, the Committee notes the Government's information to the effect that: (i) compulsory arbitration is not applicable by virtue of section 97 of the National Constitution, which provides that arbitration as a means of solving conflicts is optional; consequently, dialogue and consultation have been established with the most representative organizations in the country; and (ii) the new draft Code of Labour Procedure was being studied. The Committee expresses the hope that the new Code will shortly be adopted and that it will not include the provisions on which the Committee has commented. The Committee requests the Government to inform it in its next report on all progress achieved in this respect.

4. Lastly, the Committee once again regrets that the Government does not refer to its comments on: (i) the requirement of 300 workers as the minimum number to form a trade union (section 292); and (ii) the requirement of being an active worker in the enterprise and an active worker of the trade union in order to be eligible for trade union

office (section 298(a) and 293(d) of the Labour Code). The Committee once again requests the Government to take measures to amend the provisions mentioned above so as to reduce the number of workers necessary to form a trade union, and allow workers to elect their representatives freely.

The Committee requests the Government to inform it in its next report on all measures adopted in compliance with the requirements of the Convention.

The Committee is also addressing a direct request to the Government.

Rwanda (ratification: 1988)

The Committee notes the information contained in the Government's report. It raises the following questions:

1. *Exclusion of agricultural workers* from the scope of the Labour Code and thus from the protection guaranteed by the Convention of the right to organize and bargain collectively in respect of employment conditions (section 186 of the 1967 Labour Code). The Committee recalls that it has been requesting the Government to include these workers in the Labour Code since 1969 in the framework of the application of Convention No. 11 in order for them to enjoy the same rights as industrial workers.

2. *Prohibition of the right to strike in the public service.* The Committee recalls that the prohibition to the right to strike in the public service should be restricted to public servants who are exercising authority in the name of the State. According to the information provided by the Government in its report, the reform of the general conditions of service of employees of the State is under examination by the technical services of the Ministry of the Public Service and Labour. The reform envisages, inter alia, the amendment of section 26 of the Legislative Decree of 19 March 1974 on the general conditions of service of employees of the State which, in its present wording, forbids state employees to take part in strikes or in activities aimed at causing a strike in the state services. The Committee requests the Government to send in its next report the text of the draft amendment to section 26.

3. *Hindrance with respect to the election of trade union representatives.* Referring to its previous comments, the Committee notes with interest that the draft Labour Code currently under examination by the Transitional National Assembly, amends the provisions of section 8 of the Labour Code prohibiting election of non-Rwandans to trade union office. Section 67(2) of the draft provides that foreign workers may be elected to trade union office after a period of residence of at least five years in the country and subject to their number not exceeding one-third of the members of the organization's management and administration committee.

The Committee requests the Government to communicate information in its next report on all progress achieved in this respect.

Saint Lucia (ratification: 1980)

The Committee notes with regret that for the eighth year in succession, the Government's report has not been received.

It recalls that its previous comments concerned the need to amend sections 18(7) and 19 B(2) of the Trade Unions and Trade Disputes Ordinance of 1959 which provide that the Registrar may "at any time by an order in writing" inspect trade union accounts, by restricting their application to cases of presumed infringements coming to light from the presentation of annual financial reports or to cases of complaints by members of the union. The Committee had noted from the Government's report of 1991 that it had planned to review its labour legislation, with the assistance of the ILO, in order to bring it into conformity with ratified Conventions. It urges once again the Government to indicate in its report the measures that it has taken to bring the legislation into conformity with *Article 3 of the Convention* and national practice.

Senegal (ratification: 1960)

The Committee notes the information contained in the Government's report.

The Committee recalls that its previous comments concerned the need to amend the national legislation in order to:

- guarantee that trade union organizations are not subject to dissolution by administrative authority (Act No. 65-40 of 22 May 1965), in accordance with *Article 4 of the Convention*;
- amend the provisions which give discretionary powers to the Minister of State for the Interior to issue or refuse to issue a receipt when a trade union deposits its constitution (Act No. 76-28 of 6 April 1976 amending section 6 of the Labour Code of 1961) to bring them into conformity with *Article 2* of the Convention.

The Committee takes due note of the information supplied by the Government in its report to the effect that section L.14 of the Labour Code (Act No. 97-17 of 1 December 1997) allows a trade union to be dissolved only by agreement, in accordance with its rules or by a court decision. It also notes the Government's statement that Act No. 65-40 of 1965 applies only to so-called "seditious associations" and not to organizations of workers or employers worthy of the name. The Committee notes, however, that section L.287 of the Labour Code of 1997 does not expressly repeal the provisions on administrative dissolution contained in the 1965 legislation. The Committee reminds the Government that it would be preferable to incorporate in a law or regulations a provision stating expressly that the measures for administrative dissolution established in Act No. 65-40 on associations do not apply to trade unions.

With reference to its previous comments on the need to repeal Act No. 76-28 of 6 April 1976 which gives the Minister of State for the Interior discretion as to the delivery of a receipt as recognition of a union's existence, the Committee notes once again with regret that section L.8 of the Labour Code of 1997 reproduces in substance the provisions of the 1976 Act by subjecting the establishment of trade unions, federations and confederations to previous authorization from the Minister for the Interior. The Committee wishes to recall the importance of *Articles 2, 5 and 6* of the Convention, which guarantee the right of workers and workers' organizations to establish organizations of their own choosing, without previous authorization. The Committee also notes the information contained in the Government's report to the effect that the receipt issued by the Minister for the Interior records the date of registration of the organization and amounts at most to an "acknowledgement of receipt". In order to bring the legislation into line with this practice, the Committee once again asks the

Government to abolish the requirement of previous authorization from section L.8 of the 1997 Labour Code.

The Committee hopes that the Government will take all necessary measures to bring the national legislation into conformity with the Convention. It requests the Government to inform it in its next report of any progress made in this area and to provide copies of any provisions repealed or amended.

The Committee addresses a request directly to the Government concerning certain points.

Swaziland (ratification: 1978)

The Committee notes the statement made by the Government representative to the 1999 Conference Committee and the discussion which took place therein as well as the comments made by the Swaziland Federation of Trade Unions (SFTU) on the application of this Convention.

The Committee once again recalls that its previous comments concerned the following discrepancies between the 1996 Industrial Relations Act and the provisions of the Convention:

- the exclusion of prison staff from the provisions of the Act (section 91(c)) and thus from the right to organize;
- the obligation upon workers to organize within the context of the industry in which they exercise their activity (section 27 of the Act) and the power of the Labour Commissioner to refuse to register a trade union if he or she is satisfied that an already registered organization is sufficiently representative (section 30(5) of the Act);
- the prohibition of a federation or any of its officers from causing or inciting the cessation or slow-down of work or economic activity upon punishment of imprisonment up to five years (section 40(3) of the Act);
- limitation of the activities of federations to that of providing advice and services (section 40 of the Act);
- prohibition of the right to strike in the broadcasting sector under punishment of one year's imprisonment for the holder of an office in an organization or federation and possible disqualification from holding office for one year (section 73(5 and 6) of the Act);
- power of the Minister to apply to the court to enjoin any strike or lock-out if he or she considers that the "national interest" is threatened (section 70(1) of the Act);
- important restrictions of the rights of organizations to hold meetings and peaceful demonstrations (section 12 of the 1973 Decree on meetings and demonstrations);
- the prohibition of sympathy strikes (section 87(1)(e) of the Act);
- strike ballots conducted by the Commissioner of Labour and the requirement that a majority of the employees concerned approve such action (section 66(1)(b));
- penal sanctions ranging from one to five years for various "unlawful" forms of industrial action under sections 69(2), 72(3), 73(3-5), 74 and 87(3), including with respect to restrictions which are in violation of the principle of the right to strike;

- the power of the court to limit the non-occupational activities or wind up an organization or federation which has devoted more funds and more of the time of its officers to campaigning on issues of public policy or public administration than to protecting the rights and advancing the interests of its members (section 42(2));
- the power of the court to cancel or suspend registration of any organization taking strike action which is not in conformity with the Act, even for simple procedural violations (section 69(1)(b));
- obligation to consult the Minister prior to international affiliation (section 41(1) of the Act.

The Committee had however noted that a new Industrial Relations Bill drafted by a national tripartite committee in 1998, with the technical assistance of the International Labour Office, had eliminated the abovementioned discrepancies.

The Committee notes with deep regret from the Government's statement at the 1999 Conference Committee on the Application of Conventions and Recommendations that this Bill is still being discussed in Parliament despite the urgency of the calls to the Government both from the Conference Committee and this present Committee to take the necessary steps to ensure the adoption of the Bill in the very near future.

As concerns section 12 of the 1973 Decree on the rights of organizations and the 1963 Public Order Act, the Committee notes the concerns once again expressed by the SFTU in its comments that these provisions were used to suppress legitimate workers' action. The Committee expresses the firm hope that the Government will take the necessary measures, including through the passage of the Industrial Relations Bill, to ensure that the 1973 Decree and the 1963 Public Order Act may no longer be used to interfere with the rights of workers' organizations to organize their administration and activities and to formulate their programmes.

The Committee must once again express the firm hope that the Industrial Relations Bill will be adopted in the very near future. It requests the Government to transmit a copy of the final text to the Office as soon as it is adopted.

The Committee is also addressing a request directly to the Government on certain points.

[The Government is asked to provide full particulars to the Conference at its 88th Session.]

Syrian Arab Republic (ratification: 1960)

The Committee notes the information supplied by the Government in its last report. It notes that the Government repeats the information supplied previously and again indicates that the competent authorities are studying four draft legislative decrees to amend the texts on which the Committee has commented. The Government states that it is still not in a position to send the results to date of the above study.

The Committee previously pointed out the need to modify the following provisions:

Agricultural Labour Code, Act No. 136 of 1958

- section 160, which prohibits strikes in the agricultural sector, and section 262 of the same Code, which provides that any person who instigates or participates in a strike or lockout is liable to a term of imprisonment ranging from three months to one year.

Legislative Decree No. 84 of 1968 respecting workers' organizations and the amendments thereto up to and including 1986, Legislative Decree No. 250 of 1969 respecting craftsmen's associations and Act No. 21 of 1974 respecting peasants' cooperative associations

- section 32 of Legislative Decree No. 84 and section 6 of Legislative Decree No. 250, which prohibit unions from accepting gifts, donations and legacies, without prior ministerial approval and that of the General Federation of Workers' Unions;
- section 35 of Legislative Decree No. 84, which confers on the Ministry broad powers of intervention over trade union finances at every level;
- section 36 of Legislative Decree No. 84 and section 12 of Legislative Decree No. 250, which require that first-level trade unions allocate a certain percentage of their resources to higher-level trade unions;
- article 18(a) of Legislative Decree No. 84, as amended by section 4(5) of Legislative Decree No. 30 of 1982, which confers on the Minister the authority to determine the methods of use of trade union funds;
- section 44(b)/3 and /4 of Legislative Decree No. 84, under which eligibility for trade union office is subject to prior exercise of the occupation for at least six months and Arab nationality;
- section 49(c), which confers on the General Federation the right to dissolve the executive committee of any trade union;
- section 25 of Legislative Decree No. 84, as amended in 1982, which continues to subject non-Arab workers to a condition of reciprocity, thereby restricting their trade union rights;
- section 1(4) of Act No. 29 of 1986 amending Legislative Decree No. 84, which determines the composition of the congress of the General Federation and the latter's presiding officers.

Furthermore, the Committee asks the Government to secure the amendment of the following provisions, which establish trade union monopoly in breach of the Convention:

- sections 3, 4, 5 and 7 of Legislative Decree No. 84, which organize the structure of trade unions on a single union basis;
- sections 4, 6, 8, 13, 14 and 15 of Legislative Decree No. 30 of 1982 amending Legislative Decree No. 84 of 1968, which designate the General Federation as the single central trade union organization;
- section 2 of Legislative Decree No. 250 of 1969 and sections 26 to 31 of Act No. 21 of 1974 respecting craftsmen's associations and peasants' cooperative associations, which impose a single trade union system.

Penal codes

The Committee also asks the Government to repeal or amend sections 330, 332, 333 and 334 of Legislative Decree No. 148 of 1949 respecting the Penal Code, which restrict the right to strike and lockouts by imposing heavy sanctions, including imprisonment. It also asks the Government to repeal section 19 of Legislative Decree No. 37 of 1966 respecting the Economic Penal Code, which imposes forced labour on any person who causes prejudice to the general production plan decreed by the authorities by acting in a manner contrary to the plan. The Committee again requests the Government to review its penal legislation and to indicate in its next report any measures taken or envisaged to bring it into conformity with the principles of freedom of association.

The Committee again expresses the hope that the amendments proposed in the four draft decrees will be rapidly promulgated in so far as they bring the provisions of the legislation into line with *Articles 2, 3 and 5* of the Convention. It urges the Government to take the necessary measures to bring all of its national legislation into conformity with the Convention in the near future. The Committee recalls that the technical assistance of the Office is available to the Government, and requests the Government to inform it in its next report of any progress achieved in this area and to provide copies of any provisions which have been repealed or amended.

The former Yugoslav Republic of Macedonia (ratification: 1991)

The Committee notes with regret that the Government's first report has still not been received.

The Committee is addressing a request directly to the Government on one point and requests the Government to provide detailed replies to the questions contained in the report form sent to it concerning the application of the Convention.

Togo (ratification: 1960)

The Committee notes the information supplied by the Government in its report.

1. *Article 2 of the Convention. Right of workers without distinction whatsoever to establish and join trade union organizations, including in export processing zones.* The Committee notes the Government's statement that labour relations between employers

and workers in the Togo processing zone are governed by an agreement concluded on 1 June 1996 between the interested parties, and submitted to the clerk of the court of the first instance of Lomé. The Government annexes a copy of this agreement. The Committee notes that Chapter V of the agreement, which deals with worker representatives within the enterprises, governs in particular election procedures for staff representatives, but makes no reference to trade union organizations. Moreover, the Committee notes that Act No. 89-14 of 18 September 1989, establishing the export processing zone, provides, under section 30, that "access to the zone is restricted to duly authorized persons and vehicles". In this connection the Committee requests the Government to specify in its next report whether trade union organizations have free access to processing zones and if they have the right and possibility of presenting candidates as trade union delegates with a view to representing the workers of these zones.

2. *Article 3. Right of workers' organizations to elect their representatives in full freedom.* The Committee recalls that its previous comments dealt with the right of foreign workers to hold trade union office, at least after a reasonable period of residence in the host country. The Committee notes the Government's statement that measures in this regard are envisaged in the new Labour Code currently in preparation. The Committee expresses the hope that the Government will take the necessary measures without delay to amend section 6 of the Labour Code of 1974, which prohibits foreigners from carrying out administrative or managerial office in trade unions and requests the Government to keep it informed on all developments in this connection.

Venezuela (ratification: 1982)

The Committee notes the Government's report, as well as the discussion which took place during the 1999 Conference Committee. The Committee also notes the World Confederation of Labour's (WCL) objections to amendments to the Act concerning judicial power and the Act on the status of judges, approved on 26 and 27 August 1998, which according to the WCL violate the right to organize and the right to strike.

The Committee recalls that for many years its comments regarding the Organic Labour Act referred to the following:

- the requirement for an excessively long period of residence (more than ten years) in order for foreign workers to hold trade union office (section 404);
- the excessively long and detailed list of duties entrusted to and aims to be achieved by workers' and employers' organizations (sections 408 and 409);
- the requirement for an excessively high number of workers (100) necessary to form self-employed workers' trade unions (section 418); and
- the requirement for an excessively high number of employers (ten) needed to establish an employers' trade union (section 419).

The Committee notes the Government's indication that it intends to bring national legislation and practice into conformity with the requirements of the international labour Conventions and that the delay in establishing the ad hoc committee for this purpose was due to the politico-electoral situation of the second half of 1998. On this subject, the Committee expresses the firm hope that the Government will communicate detailed information in its next report on all measures adopted to amend the provisions of the

Organic Labour Act mentioned above and hopes to be able to note in the very near future that the legislation fully complies with the requirements of the Convention.

Lastly, the Committee observes that the WCL points out that, by virtue of the Acts amending judicial power and the status of judges, workers in the sector do not enjoy the right to organize and to strike. The Committee notes the Government's indication that the legislation provides for freedom of association for these workers and a collective agreement is in force in this sector.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Albania, Burundi, Gabon, Ghana, Haiti, Kyrgyzstan, Latvia, Republic of Moldova, Pakistan, Paraguay, Rwanda, Sao Tome and Principe, Senegal, Seychelles, Swaziland, Tajikistan, The former Yugoslav Republic of Macedonia, Venezuela.*

Convention No. 88: Employment Service, 1948

Democratic Republic of the Congo (ratification: 1969)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> *Article 3 of the Convention.* The Committee notes that, according to the information supplied by the Government, it has not been possible to continue the work begun in 1986 of establishing employment offices and that existing offices are experiencing operating difficulties due to lack of qualified staff and equipment. The Committee can only reiterate the hope that the Government will be able to take the measures necessary to allow the network of employment offices to operate and develop in accordance with the provisions of this Article of the Convention and will be able to supply the relevant information.
>
> *Articles 4 and 5.* The Committee notes that the draft ordinance establishing the new National Employment Service, which, according to the Government, would ensure the cooperation of employers' and workers' representatives in accordance with *Articles 4 and 5*, has still not been adopted. It requests the Government to indicate in its next report in what way the consultations prescribed are conducted in practice and provide the Office with the text of the ordinance once it is adopted.
>
> The Committee notes that the Government indicates that it will be able to supply in its next report the statistical information required.

The Committee hopes that the Government will take all possible measures in the near future.

Djibouti (ratification: 1978)

The Committee notes with regret that, for the fifth year in succession, the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee notes that many of the Articles of the Convention are still not being applied.
>
> *Article 3 of the Convention.* The Government states once again that no measure has been taken to set up a sufficient number of employment offices, despite the provisions of section 41 of Act No. 21/AN/83 first L of 3 February 1983 to organize the central administration of the Ministry of Labour and Social Welfare. The Committee notes that no

progress has been achieved in this respect for several years and once again hopes that the appropriate measures will be taken in the near future to give effect to this Article of the Convention, and to the above provisions of the national legislation. It requests the Government to supply information on any progress achieved in this respect in its next report.

Articles 4 and 5. In its previous comments, the Committee noted that no arrangements had been made through the advisory committee provided for in section 162 of the Labour Code currently in force to involve the social partners in the organization and operation of the National Employment Service. The Government's report provides no new information on this aspect. The Committee therefore once again hopes that the Government will not fail to take the necessary steps in the very near future to give full effect to these Articles, which provide that suitable arrangements shall be made through advisory committees for the cooperation of representatives of employers and workers in the organization and operation of the employment service, and consultation with these representatives in the development of employment service policy. The Committee trusts that the Government will be able to describe in its next report the measures which have been taken or are envisaged and the progress which has been achieved with a view to ensuring conformity with these provisions of the Convention.

Articles 7 and 8. In its previous report, the Government stated that no measures had been taken to give effect to these Articles owing to the lack of qualified managerial staff in the placement division. The Committee nevertheless hoped that the Government would do its utmost to take appropriate measures in the very near future to meet the needs of particular categories of applicants for employment, such as persons with disabilities and juveniles, in accordance with these Articles. It hopes that the Government will be able to describe the progress achieved on these points in its next report.

Article 9, paragraph 4. The Committee notes from the Government's report that the project for the specialized training of managerial staff, financed by the EC and the World Bank, has come to an end. It would be grateful if the Government would indicate any action taken to continue the provision for adequate training of staff for the performance of their duties in the employment service, in accordance with these provisions of the Convention.

Part VI of the report form. The Committee would be grateful if the Government would continue to supply information on any practical difficulties encountered in the implementation of the Act of 1983 and in the application of the Convention. The Government may find it helpful to have some assistance from the ILO on certain aspects of the application of the Convention.

The Committee hopes that the Government will make every effort to take the necessary action measures in the very near future.

Sao Tome and Principe (ratification: 1982)

The Committee notes with regret that the Government's report has not been received for several years. It hopes that a report will be supplied for examination by the Committee at its next session and that it will contain full information on the matters raised in its direct request, which read as follows:

> The Committee notes that the public employment service in Sao Tome and Principe is free of charge *(Article 1, paragraph 1, of the Convention)*. It hopes that in its next report the Government will supply further information on a number of points that have already been raised in its previous direct request and, particularly, on the arrangements made in accordance with *Articles 4 and 5* to ensure the cooperation of representatives of employers and workers in the organization and operation of the employment service and in the

development of employment service policy. Please also continue to supply statistical information and the other published information indicated in *Part IV of the report form* on the work of the CNE respecting the appropriate measures to be taken in accordance with the provisions of *Article 6(b), (c) and (e)* of the Convention.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Sierra Leone (ratification: 1961)

The Committee notes with regret that the Government's report has not been received for several years. It must therefore repeat its previous observation which read as follows:

> The Committee notes from the Government's report that the draft Employment Service Regulations to which the Government has been referring since 1974 have still not been adopted. The Government indicates once again that the question of the adoption of the draft Regulations is still on the agenda of the next meeting of the Joint Consultative Committee.
>
> The Committee reiterates its hope that the new provisions will be adopted in the very near future and that the next report will contain the information previously requested on: (a) the setting up of national, and where necessary regional and local, advisory committees ensuring the participation of employers' and workers' representatives in equal numbers in the organization and operation of the employment service and in the development of the general policy of this service, in accordance with *Articles 4 and 5 of the Convention*; and (b) the determination of the functions of the employment service in accordance with *Article 6*.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Singapore (ratification: 1964)

Articles 4 and 5 of the Convention. Further to previous comments, the Committee notes with interest that in September 1996 the Ministry of Manpower launched a tripartite *Back to Work* programme, in cooperation with the Employers' Federation and the National Trade Union Congress. Services under the programme include job placement, awareness seminars and training. An advisory committee which includes representatives of employers' and workers' organizations was appointed in order to help chart new directions of the programme. A tripartite panel on retrenched workers, which advises employers to consider other alternatives to retrenchment and to assist retrenched workers in their search for jobs, was also set up in light of the current economic situation. The Committee would appreciate receiving further information on the progress made by the *Back to Work* programme and on continued tripartite cooperation.

Parts IV and VI of the report form. Please furnish statistical information and other indications of the application of the Convention.

Spain (ratification: 1960)

1. The Committee notes the observations of the General Union of Workers (UGT), sent to the Government in March 1999. The UGT states that there are still problems that pertain in respect of the National Employment Institute (INEM), as the body operating as a free, public employment service referred to in *Article 1 of the Convention*. Some of the

problems of the INEM were aggravated by the Government's budgetary policy. The INEM was unable to achieve its aims effectively, as required under *Article 6* of the Convention. The UGT is opposed to the budgetary measures adopted by the Government over the last years, which have significantly reduced state support. The Committee notes that the Government has not communicated its comments in respect of the questions raised by the UGT. It would be grateful if the Government would supply a detailed report on the application of the Convention, including details of the organization of the employment service, and the activities undertaken by the INEM to ensure effective fulfilment of the functions mentioned in *Article 6* of the Convention.

2. The Committee recalls that, in its direct request of 1998, it had requested the Government to continue supplying detailed information on the measures adopted in conformity with *Article 11* of the Convention, to secure effective cooperation between the public employment service and non-profit-making employment agencies. Please also supply detailed information on the nature and volume of the respective activities of the INEM and of non-profit-making employment agencies *(Part IV of the report form)*.

United Republic of Tanzania (ratification: 1962)

Tanganyika

1. The Committee notes that the Government adopted a National Employment Policy in April 1997. The Government indicates that unemployment is increasing annually and the policy document referred to 30 per cent of the labout force being unemployed or underemployed. The Government also indicates that jobseekers are unaware of labour market trends because there are no centres which provide such information. It is therefore necessary to establish employment promotion offices which would perform the role of the former employment exchanges. The Committee notes the Government's concern and also notes the administrative and financial constraints, but again expresses its hope that it will shortly implement its National Employment Policy. It further asks the Government to inform it of any progress as regards the establishment of employment promotion offices and trusts that it will supply, in its next report, information on measures taken in this respect with a view to ensuring full application of *Article 6* (functions of the employment service) and *Article 7* (measures to facilitate within the various employment offices specialization by occupation and by industries, and to meet the needs of particular categories of applicants, such as disabled persons) *of the Convention*.

2. *Articles 4 and 5*. The Government indicates that tripartite committees have been established at different levels within the framework of the National Employment Policy. The Committee would be grateful if the Government would include in its next report further information on the consultations taking place with representatives of employers and workers concerning the organization and operation of the employment services and in the development of an employment service policy.

3. *Article 8*. The Government recognizes that the problem of unemployment is well known and gives support to any programme designed to eradicate unemployment. The Committee would be grateful if the Government would include in its next report any particulars concerning the arrangements made by the vocational training institutions for juveniles within the framework of the employment and vocational guidance services.

4. *Part IV of the report form.* The Government indicates that the current financial climate has hindered the regular collection of statistics. The Committee reiterates its hope that the statistical and other information required will be supplied as soon as it becomes available.

Turkey (ratification: 1950)

The Committee notes the information supplied by the Government in its report and the information provided by the Confederation of Turkish Trade Unions (TÜRK-IŞ) and the Turkish Confederation of Employers (TISK).

Articles 4 and 5 of the Convention. According to the information supplied by the Government, the local advisory committees held five meetings in 1997 and 12 meetings were planned for 1998. The Government also states the provincial work councils have been made operational since 1994 and that they include tripartite participation. However, TÜRK-IŞ states that the advisory committee established under section 10 of the Act on the Establishment and Functions of the Placement and Recruitment Office (No. 4837) has not convened since 1972. The Committee requests specific details on which workers' organizations have participated in these meetings, and how their views were taken into account in formulating policies and programmes to carry out the aims of the Convention, as requested in the report form.

Article 9. In reply to the previous request for further information on placement and recruiting office staff independence, the Government states that only a few top officials may be affected by a change of government. However, TÜRK-IŞ repeats its allegations that staff are not independent of a change of government. The Committee would appreciate receiving more detailed information on the status and conditions of service of the employment service staff.

Article 11. The Committee notes that a draft bill to restructure the State Employment Agency still has not been adopted. The Government states in its report that the bill will permit the State Employment Agency to license private employment agencies, which TISK supports as it considers the public employment agencies to be inadequate for the contemporary labour market. The Committee would appreciate receiving further details concerning the arrangements made to secure effective cooperation between the public employment service and private employment agencies not conducted with a view to profit.

Further, the Committee notes that while statistical information has been supplied with respect to training courses provided through the State Employment Agency, the Government has not supplied the Committee with any appreciation as to whether this training has been effective in providing employment for such trainees. The Committee therefore requests the Government to supply statistical information on the number of applications for employment received, the number of vacancies notified and the number of persons placed in employment by such agencies, in accordance with *Part IV of the report form.*

[The Government is asked to report in detail in 2001.]

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Angola, Bahamas, Belize, Central African Republic, Denmark, Greece,* *Guinea-Bissau, Lebanon, Libyan Arab Jamahiriya, Republic of Moldova, Nigeria, Panama, Philippines, Romania, Slovakia, Suriname, Thailand, Tunisia.*

Information supplied by *Slovenia* in answer to a direct request has been noted by the Committee.

Convention No. 89: Night Work (Women) (Revised), 1948

Bangladesh (ratification: 1972)

Further to its previous comment, the Committee notes the Government's report. It notes the Government's indication that the Tripartite Consultative Council has recommended the ratification of the Protocol of 1990 to the Night Work (Women) Convention (Revised), 1948. This recommendation will therefore be submitted to the Cabinet and the respective Parliamentary Commission.

The Committee requests the Government to provide information on any developments in this respect.

Ghana (ratification: 1959)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> *Article 4(a) of the Convention.* In its previous observations, the Committee had reiterated the need to amend section 41(2)(a) of the Labour Decree of 1967 which, contrary to the Convention, permits the suspension of the prohibition of night work by women when work is interrupted by reason of a strike. The Government states, in its report, that the issue has been referred to the tripartite National Advisory Committee on Labour and it hopes that the Committee which is presently addressing other equally important issues would appropriately tackle the issue with the view of amending the offending provision of the law.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future and requests it to indicate any progress achieved in this regard.

India (ratification: 1950)

Further to its previous comments, the Committee notes the Government's report and the observations by the National Front of Indian Trade Unions (NFITU) and the Centre of Indian Trade Unions (CITU) submitted with the report.

In its previous observations, the Committee has been commenting on the discrepancy between the exemptions to the prohibition of night work of women under section 66 of the Factories Act, 1948, and the requirements under *Article 5 of the Convention.* It recalls that, under *Article 5* of the Convention, the prohibition of night work for women may be suspended only when, in case of serious emergency, the national interest demands it and after consultation with the employers' and workers' organizations concerned.

In reply, the Government states that it is aware that the Factory Act, 1948, is not fully in conformity with *Article 5* of the Convention, but that there is no proposal to amend the Factories Act at the moment. The Government refers to the judgements of the

High Courts of Bombay and Madras, which restrain the Government from taking any action against employers for permitting any willing woman employee to work in their factories during night hours. The report indicates that the Government is yet to make a final decision as to whether the Convention should be denounced or the Protocol of 1990 to the Night Work (Women) Convention (Revised), 1948, should be ratified.

The Committee takes due note of the above information. It also notes that the NFITU points out the absence of implementation of the Convention in the unorganized sector, and that the CITU is opposing the Government's attempt to change the existing legislation which restricts the night work of women. The CITU argues that the reasons for the restriction (such as family responsibilities, health concern and security issues) not only continue to exist but have intensified in the impact, and underlines that the demand for women's night work comes especially in the export processing zones.

The Committee asks the Government to indicate any development in the abovementioned consideration of its position as to this Convention, including its observation on the points raised by the CITU. It also requests the Government in the meantime to continue providing information on the application of the Convention in practice, with particular reference to the unorganized sector mentioned by the NFITU. In addition, the Committee requests the Government to fully consult the employers' and workers' organizations before taking a final decision as to whether the Convention should be denounced or the Protocol should be ratified.

Philippines (ratification: 1953)

In its previous comments, the Committee noted that section 130 of the Labor Code prohibits the employment of women in industrial undertakings between 10 p.m. and 6 a.m., representing a period of only eight hours while, under *Article 2 of the Convention*, the prohibition of night work shall cover a period of at least 11 consecutive hours.

The Committee previously noted that, under section 131(e) of the Labor Code and section 5(e), Rule XI, Book III of the Rules to implement the Labor Code, the prohibition of night work by women does not apply: (i) where the manual skill and dexterity required for the work is an attribute of female workers and where this work cannot be carried out with the same efficiency by male workers; and (ii) where the employment of women constitutes an already established practice in the enterprises concerned at the date when these Rules under the Labor Code came into force. These exceptions are not authorized by the Convention.

The Committee notes from the Government's report that, under a Labor Code Review Project undertaken by the Department of Labor and Employment, a proposal to amend section 130 of the Labour Code so as to cover a period of at least 11 consecutive hours has been submitted to bring it into conformity with *Article 2* of the Convention. It further notes that corresponding amendments of the rules implementing the Code to delete the above exceptions will also be undertaken. It asks the Government to report any progress made in these proposed amendments and to supply copies of relevant provisions when adopted. Noting also that the ratification of the Protocol of 1999 to the Convention was proposed by the Department, the Committee requests the Government to provide information on any development in this regard.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Angola, Guatemala, Slovakia, Swaziland.*

Convention No. 91: Paid Vacations (Seafarers) (Revised), 1949

Requests regarding certain points are being addressed directly to the following States: *Angola, Djibouti, Guinea-Bissau, Israel.*

Convention No. 92: Accommodation of Crews (Revised), 1949

Italy (ratification: 1981)

The Committee notes the information provided by the Government in its report as well as that supplied in respect of the application of Convention No. 133, also ratified by Italy. It notes that the Government refers in its report to the adoption of Legislative Decree No. 271 of 27 July 1999, implementing Act No. 485 of 31 December 1998, and covering safety, health and hygiene aboard merchant shipping and fishing vessels. In conformity with section 34 of the Legislative Decree, specific regulations shall be adopted, within 90 days of its entry into force, defining technical standards governing ship construction and the working environment, in conformity with a certain number of ratified ILO Conventions, including Conventions No. 92 and 133. The Committee also recalls that, in a previous report, the Government indicated that the revision of Act No. 1045 of 16 June 1939, on the hygiene and living conditions of crews on board national merchant vessels was being considered. The Committee therefore hopes that provisions giving effect to Convention No. 92 and also to Convention No. 133 will be adopted in the near future and that the Government will supply information on all developments in this connection.

Liberia (ratification: 1977)

In comments made since 1990, the Committee noted that while the Government had supplied provisions in relation particularly to the inspection of crew accommodation, there does not appear to be any detailed regulation on crew accommodation as required by *Part III of the Convention.* The Committee notes from the Government's report that its comments have been forwarded to the Commissioner of the Bureau of Maritime Affairs for handling. The Committee urges the Government to take the necessary measures to apply the Convention and hopes that it will soon report on progress achieved.

* * *

In addition, a request regarding certain points is being addressed directly to *Israel.*

Information supplied by *France* in answer to a direct request has been noted by the Committee.

Convention No. 94: Labour Clauses (Public Contracts), 1949

Democratic Republic of the Congo (ratification: 1960)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee noted that in its previous report the Government repeated, as it had for years, that the legislative text would be communicated as soon as it has been brought into line with the provisions of the Convention.
>
> The Committee again strongly suggests that the Government take the necessary steps to ensure that the text designed to give effect to the Convention, for which preparations started in 1979, is adopted in the near future.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Ghana (ratification: 1961)

The Committee has been commenting on the need to bring the national legislation into conformity with *Articles 2 and 5 of the Convention* (inclusion of labour clauses in public contracts, and application of adequate sanctions and measures to ensure the payment of wages). The Committee noted in its previous observation that the Government had referred the matter to the tripartite National Advisory Committee on Labour for discussion with a view to bringing the national legislation into conformity with the Convention. It notes the Government again mentions the examination by this body of the relationship between the national labour laws and the ratified Conventions for their harmonization. Recalling that the Government has been referring to its intention of changing legislation since 1991, the Committee can only express the hope that progress will be accomplished in the very near future. It suggests that the Government consider consulting the International Labour Office on necessary steps to apply the Convention in this respect.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Djibouti, Saint Lucia.*

Convention No. 95: Protection of Wages, 1949

Argentina (ratification: 1956)

Further to its previous observation, the Committee notes the Government's report in particular on the following points and asks the Government to supply further information as required.

1. Regarding the question of the practical application of the Convention in the *maritime sector*, raised in the comments made by the Union of United Maritime Workers (SOMU), the Committee notes the Government's reference to collective agreement No. 307/99 applicable among others to the employees in question.

2. *Settlement of the debts of the State.* The Committee notes the Government's indication that the wage arrears owed to workers in the public service of the State, which were consolidated under Act No. 23982, had been all settled by means of payment by the coupon (BOCON).

3. *Deferred payment of wages.* In its earlier observations, the Committee noted the comments made by the Confederation of Educational Workers (CTERA) and the Union of Educational Workers of Rio Negro, concerning the deferred payment of wages which are due. The Committee notes the Government's statement that the wage payment to the local public employees is practically normal in the majority of cases, while delays have been found in the provinces of Jujuy, Corrientes and Tierra del Fuego, due to the local financial difficulty requiring the assistance of the national Government. The situation is improving slowly, and so is the situation in the province of Rio Negro, where however, no delay of wage payment is registered. The Committee requests the Government to continue to supply information on the situation of wage payment in the provinces, and any measures taken to ensure the regular payment of wages in accordance with *Article 12(1) of the Convention.*

4. The Committee notes that, in reply to the comments made by the Association of the Teachers of Santa Cruz (ADSC), regarding the system of allowance connected with attendance at work (*bonificación por presentismo*), the Government indicates that the situation has been normalized and no new complaint has been registered.

5. As to the observation made by the Union of Press Workers of Buenos Aires (UTPBA) regarding the Government's plan to repeal special legislation on journalists, the Committee notes the Government's statement that, even in the case of the abolition of the special rule, which is an issue for the future and remains therefore uncertain, the individual relations would continue to be protected under the Act on Labour Contract (No. 20744) which includes the protection of wages and is applicable to all workers. The Committee recalls that the UTPBA referred also to the situations which workers are unduly assimilated to autonomous entrepreneurs and thus excluded from the protection of wages under labour law. It requests the Government to bear in mind such concern over the situations where work may be allegedly carried out outside of contracts of labour, in future reporting on the application of *Article 2* of the Convention concerning the scope of the Convention.

6. *Benefits to improve the nutrition of workers and their families.* The Committee earlier noted that the Decree concerning benefits to improve the nutrition of the worker and his family, on which the Committee had commented pointing out the need to protect such benefits as a part of wages, was repealed by Decree No. 773/96. Subsequently, Act No. 24700 of 1996 repealed this Decree and, by amending section 103bis of the Act on Labour Contract, re-established a concept of "social benefits" of "non-remunerative" character with a view to improving the quality of life of the employee and the family, which includes the food coupons and food baskets. The Committee notes the Government's repeated explanation that the remunerative character of these benefits under the repealed Decree No. 773/96 was criticized by both employers and workers because of the increase of employers' contributions and thus the labour cost resulting in the withdrawal of such benefits. According to the Government, the only way to reverse the situation is the adoption of another law by the Congress, which has not succeeded.

The Committee once again draws the Government's attention to the distinction between the protection that the Convention affords as regards wages and the question of calculating social security or other contributions. As regards the latter, the Committee reiterates that the definition or scope of wage as the basis for calculation of social contributions is outside the scope of this Convention. It requests the Government to re-examine the matter and to take all necessary measures to protect the payment of all components of remuneration as defined by *Article 1*, including benefits in the form of food or related coupons, as set out in *Articles 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15 and 16* of the Convention.

7. *Application in practice.* The Committee hopes that the Government will continue to provide information on the application of the Convention in practice and measures taken to ensure it, in accordance with *Article 16* of the Convention, including information on any difficulties encountered.

Central African Republic (ratification: 1960)

The Committee notes the communication received from the Democratic Trade Union Organization of African Workers, to the effect that during the period of six years public and semi-public sector workers have been paid irregularly by the Government. The Office sent a copy of this communication in October 1999 to the Government for comments. The Committee requests the Government to respond to the points raised in this communication and to provide detailed information on the practical application of *Article 12(1) of the Convention* (regular payment of wages), in particular in the public and semi-public sectors.

Colombia (ratification: 1963)

1. The Committee previously noted the observations made by the General Confederation of Democratic Workers (CGTD) concerning the delay of wage payment by several months to workers in the public sector, for example, in the Departments of Putumayo, Vinchada, Sucre and Meta, and also in the Municipalities of Tolú, Quibdó, Montería, Puerto Asís and Caicedonia. The Committee also noted the Government's reply that, for all public employment, there should be budgetary appropriation and that the Ministry of Labour and Social Security has the competence to carry out investigations in cases of non-payment of wages and to impose sanctions.

A further communication was received from the CGTD in April 1999, which points out that the problem of non-payment of wages to workers in the public sector persists, in contravention of *Article 12(1) of the Convention,* and refers specifically to the situations in Hospital San Fransisco de Asís of Quibdó, Municipalities of Ibagué, Arauca, Montería and Department of Córdoba. The CGTD considers that the Government has taken a series of actions violating the workers' rights to associate and other rights, and in both its double role of employer and of supervisory organs, fails to respect or make others respect such rights, including that of the payment of wages due. This comment was transmitted in May 1999 to the Government for its observation but the Government's report received in September 1999 only refers to the provision of the labour law with regard to the application of *Article 12* and contains no reply to the points raised by the CGTD.

2. Since the last session of the Committee, a communication was received from the Union of Workers in the Textile Industry of Colombia (SINTRATEXTIL), pointing out a situation of non-payment of wages in addition to the dismissal of unionized workers. Although a copy of this communication was sent to the Government for comments in September 1999, no reply has been received.

3. The Committee requests the Government to supply detailed information on any concrete measures taken to inquire into and rectify the non-payment of wages in the public sector mentioned by the CGTD, as well as more specific information on measures taken for the application in practice of *Article 12* of the Convention concerning the regular payment of wages, including a particular reference to the situation mentioned by the SINTRATEXTIL.

Comoros (ratification: 1978)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee notes the observations made by the Union of Comoros Workers' Autonomous Trade Unions (USATC) pointing out that wages have not been paid for nearly 12 months to workers by the State of Comoros, and that 52 per cent of the state officials are teachers. In the absence of response from the Government, the Committee invites it to send its observation on the issue raised with reference to the provision of *Article 12(1) of the Convention* regarding the regular payment of wages.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Djibouti (ratification: 1978)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee notes that the observations made jointly by the Labour Union of Djibouti and the General Union of Djibouti Workers (UGT/UGTD), concerning the Act on Finance submitted to the National Assembly in March 1998 and promulgated by the Head of State on 5 April 1998, and its repercussion on the wages of January, which has been delayed. These observations were transmitted to the Government for comments in July 1998. In the absence of response from the Government, the Committee invites it to send its observation on the issue raised with reference to the provision of *Article 12(1) of the Convention* regarding the regular payment of wages. It also asks the Government to supply a copy of the Act in question.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Libyan Arab Jamahiriya (ratification: 1962)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation on the following point:

> The Committee noted the discussion which took place at the Conference Committee in June 1996 on the final settlement of wages due to Palestinian workers who had recently left the Libyan Arab Jamahiriya.

> The Government confirmed at the Conference Committee that it was ready to take all the necessary measures to settle the entitlements of any worker who could prove the existence of outstanding entitlements.
>
> Recalling that the Convention applies to all persons to whom wages are paid or payable, irrespective of the characteristics of their contracts, formal or non-formal, it requests the Government to provide information on all measures taken to ensure the final settlement of wages at the expiry of a contract, in accordance with *Article 12(2) of the Convention*, for the Palestinian workers other than those with employment permits and formal contracts.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Republic of Moldova (ratification: 1996)

The Committee notes that the Governing Body at its 276th Session (November 1999) entrusted to a tripartite committee the examination of a representation alleging non-observance by Moldova of the Protection of Wages Convention, 1949 (No. 95), made under article 24 of the ILO Constitution by the General Federation of Trade Unions of the Republic of Moldova.

In accordance with normal practice, the Committee is postponing its comments on the application of the Convention pending the Governing Body's adoption of the conclusions and recommendations of the above committee.

Russian Federation (ratification: 1961)

Further to its previous observation, the Committee notes the information supplied by the Government to the Conference Committee on the Application of Standards in June 1999 and the discussions which took place in that Committee. The Committee notes that the Government supplied a detailed report just before its present session at a time when it was too late to be analysed. Therefore the Committee will examine this report in detail at its next session. In the meantime, the Committee can only hope that the report just received has dealt with all the substantive provisions of the Convention particularly relating to the following points raised only on the basis of the information that had been revised up to June 1999.

1. *Present situation of wage arrears.* A communication was received on 16 March 1999 from the Russian Cultural Workers' Union, which alleges the systematic non-payment of wages for up to seven months in the Russian cultural establishments, contrary to *Article 12(1) of the Convention* (Regular payment of wages), *Article 3* (Payment in legal tender), *Article 4* (Restriction on the payment in kind), and *Article 6* (Freedom of the workers to dispose of their wages). Nor has the Government responded specifically to observations made by a number of other workers' organizations, and noted in the Committee's previous observation.

According to the information supplied by the Government to the 1999 Conference Committee, the total wage arrears, as of 1 May 1999, stood at 16,348,000,000 roubles, of which 12,088,000,000 roubles were attributable to shortfalls in budget funding at all levels. If these figures are compared to those supplied by the Government to the 1998 Conference Committee (total of 62,800,000,000 roubles, including 9,500,000,000 roubles of arrears due to the lack of direct financing out of the federal and regional budgets), the wage arrears in the public sector have considerably increased while the total arrears as a whole have been reduced.

The Government representative to the 1999 Conference further stated that 19.6 per cent of the shortfalls was in the federal budget financing and the remaining 80.4 per cent related to the territorial budgets, and that on 1 May 1999 wage arrears in the social sector resulting from shortfalls in the territorial budget were recorded in all the constituent territories of the Russian Federation, although the outstanding wage arrears fell in 68 regions.

The Committee notes with great concern the above information supplied to the 1999 Conference as a sign of a continued aggravation of the situation, even if it may not be the same in all sectors of the economy.

2. *Measures to be taken.* With regard to the present situation of non-observance of *Article 12(1)* of the Convention, the Committee has for some years been emphasizing the importance of such means as: (i) effective supervision; (ii) imposition of appropriate penalties to prevent and punish infringements; and (iii) steps to make good the prejudice suffered.

As to the information provided by the Government to the 1999 Conference, the Committee notes that the written information and the oral statement of the Government representative give various figures for 1998 and for January to April 1999, not only of the labour inspection carried out concerning the payment of wages (45,000 and 11,000 inspections respectively), but also of the number of employers fined (6,400 and 1,489) and of the total amount of fines (4,400,000 roubles and 1,246,000 roubles). The Government also provided the Conference Committee with the figures regarding the total sum of wage payments made to workers as a result of inspections – 9,000,000,000 roubles in 1998 compared to 7,700,000,000 in 1997 and 6,000,000,000 in 1996. However, the available information without further specification does not permit the Committee to conclude whether or not the measures by the Government have really been taken where they are needed, and are commensurate to the scale of the problem.

Regarding sanctions, the Committee notes that a new section 145-1 was added to the Criminal Code (adopted on 17 February and entered into force on 15 March 1999) to punish non-payment of wages by a fine to be calculated according to the minimum monthly wages or the income of the convict, or by deprivation of the right to occupy certain positions or to conduct certain activity for up to five years, or by imprisonment for up to two years, with a provision for increased penalty for a case that caused grave consequences. It requests the Government to supply detailed information on the enforcement of this new provision (number of cases investigated, prosecuted and convicted with details on the penalty actually imposed).

The Committee further notes that, in its statements made at the 1999 Conference, the Government considers it necessary to take measures in a variety of areas such as: enacting legislation for state supervision and monitoring of compliance with labour legislation; adopting the new draft Labour Code which has already been submitted to the state *Duma*; ensuring effective administration and financial control over other public undertakings in their activities, including the payment of wages and improving accountability of managers; creating a legal framework for the activities of state officials in management bodies of joint-stock companies; ensuring the principle of responsible ownership of socially important facilities.

3. In the light of the above, the Committee would conclude that there still remains great need for further measures to be taken by the Government in different areas and as swiftly as possible. The Committee notes that the Government's reply tends to concentrate on the situation in the sector financed by public budget, and on financial and budgetary measures. This may be justified if it is the sector where the problem is accentuated. However, the Committee recalls that the Government has the double responsibilities – as an employer to pay their employees' wages regularly and promptly, and also to enforce the national legislation providing for regular payment of wages to all employees covered by the Convention.

The Committee again requests the Government to refer to the report of the committee set up to examine the representation made under article 24 of the ILO Constitution by Education International and the Education and Science Employees' Union of Russia, which was approved by the Governing Body in November 1997, and the recommendations contained therein. It asks the Government to supply, in particular, detailed information on supervision, penalties, the settlement of wage arrears, texts of any relevant legislation and, more specifically, the application of the new provision of the Criminal Code mentioned above. The Committee would also urge the Government to include information on any decision made by courts of law or other tribunals concerning the question of regular payment of wages.

4. The Committee considers that the concern expressed by the committee referred to above, which examined the representation, concerning the need to ensure that measures taken to reimburse wage arrears do not result in the violation of other provisions of the Convention, would seem to be confirmed by the observation by the Russian Trade Union of Employees of Culture noted in paragraph 1 above. In addition, the Committee has noted that the Education and Science Employees' Union of Russia pointed out the increase in the payment of wages in kind in some regions.

The Committee requests the Government to indicate measures taken or envisaged to ensure not only the regular payment of wages but also the application of all the provisions of the Convention, and to supply a full report in due time. It also requests the Government to include, for instance, extracts from official reports that show the number of investigations made, infringements observed and penalties imposed.

Ukraine (ratification: 1961)

The Committee has been commenting on the application in practice of *Article 12(1) of the Convention* (Regular payment of wages) on which a number of comments were made by workers' organizations in various sectors. Since the last session of the Committee, a communication dated 21 July 1999 was received from the Federation of Trade Unions of Ukraine, which points out that the total wage arrears had continued to increase to reach 7,013,000,000 grivnas (US$1,750,000,000) of which 858,000,000 grivnas are owed to workers in the state or local budget sector; some 10.4 million workers (47.3 per cent of the workforce) are affected; an ever larger proportion of wages is being paid in kind. The Federation considers that the efforts by the executive authorities to monitor observance of legislation on the payment of wages is ineffective, and states that, while there were 20,247 reported cases of violations of legislation on wage payment, fines imposed on persons responsible amounted only to 64,000 grivnas, and less than one-third of the sum has actually been paid.

The Committee notes with interest that the Government supplied information in response by several communications in May and November 1999. The Government states in its latest communication that, according to the data supplied by the State Statistics Committee, the total wage arrears owed to workers decreased during August and September 1999 by 411,000,000 grivnas (5.8 per cent) and stood at 6,781,000,000 grivnas as of 1 October. Of the total, the arrears in state-controlled undertakings count for 35.4 per cent (2,400,000,000 grivnas) and the non-state owned undertakings 64.5 per cent (4,380,000,000 grivnas). The Committee recalls that in its previous observation it noted 5,600,000,000 grivnas of total wage arrears as of May 1998, including the arrears in the state budget sector of 836,000,000 grivnas.

As to the measures taken, the Government indicates that a comprehensive survey of undertakings still owing wage arrears was carried out by the labour inspectorate, which covered as of 25 October 1999 a total of 27,245 enterprises with wage arrears (about 42 per cent of the total number), and resulted in the payment of 814,100,000 grivnas (22.7 per cent of the total wage arrears at the undertakings surveyed), court summonses issued in 3,117 cases of non-compliance with wage legislation, 2,048 cases examined by the courts and fines totalling 122,100 grivnas imposed, and 33 cases of criminal proceedings initiated for gross violation of labour legislation. The Government further states that under the terms of the General Agreement for 1999-2000 concluded between the Cabinet, the Confederation of Employers and the trade unions, wage arrears should be paid off by the end of 2000 at state-owned undertakings and those in which the State has a stake of more than 50 per cent, and that, in addition, wage arrears (more than 20,000,000 grivnas) owed to workers of undertakings that have carried out work for the State would be paid by the end of 1999.

The Committee also notes that the communication received from the Government in May 1999 includes further information concerning the developments on the matter, such as the situation in different sectors of economy, various measures taken including references to a number of Orders of the Cabinet of Ministers, supervision of the settlement of wage arrears. The Committee notes that the Government mentions in this communication, among the consequences of the lack of funds to pay wages, the payment of wages in forms other than money (e.g. payment in kind or use of coupons). It also notes that the Government considers that the courts, when examining violations of labour legislation, tend to tone down the culpability of those responsible because of the difficult financial situation, and to often make inappropriate decisions in view of the social tensions caused by such violations.

The Committee notes the measures taken by the Government with a view to solving the problem of arrears in wage payment. However, taking account of the fact that considerably large figures are cited both by the Government and the Federation of Trade Unions of Ukraine as still outstanding arrears in wage payment, the Committee cannot but urge the Government to continue its efforts to take all possible measures to improve the present situation and to indicate in detail the measures taken to apply the Convention as well as the results obtained.

The Committee requests the Government also to report the measures taken to ensure the application not only of *Article 12(1)* of the Convention but all its other substantive Articles, in particular: *Article 3* concerning the prohibition of payment with promissory notes or coupons; *Article 4* concerning the regulation of payment in kind;

Article 11 on the treatment of wages as privileged credit in the event of bankruptcy; and *Article 15* on the sanctions in case of violation. It requests the Government to include information on any legislative measures, including the development regarding the Bill to amend the Criminal Code and the Code of Administrative Offences mentioned in the May 1999 communication, and copies of relevant legislative provisions (e.g. Cabinet Orders). Please continue to provide detailed information on all relevant measures taken to ensure supervision, actual application of penalties and the advancement in the settlement of wage arrears.

Uruguay (ratification: 1954)

The Committee notes that the Government's report contains no reply to its previous comments. It must therefore repeat its previous observation which read as follows:

> The Committee notes the observations made by the Latin American Central of Workers (CLAT), with reference to *Articles 6 and 9 of the Convention*, pointing out that there have been cases of non-payment of wages for overtime hours worked and inappropriate deductions from wages. These observations were transmitted to the Government for its comments in January 1998. In the absence of response from the Government, the Committee invites it to send its observation on the issues raised.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Venezuela (ratification: 1982)

1. The Committee notes the comments made by the World Confederation of Labour on the application of the Convention by Venezuela. The WCL alleges that the employees of the penal judiciary have been obliged, since the reform of the system in 1998, to work two hours longer per day without being compensated by the increase in wages.

The Committee notes the information supplied by the Government to the effect that, following the entry into force of the Organic Code of Penal Procedures, the work schedules within the penal judiciary had to be modified. Because of this and on the basis of the collective agreements in force as well as of the decision of the Magistrates Council, the shifts ("turnos") were established respecting the number of hours (seven hours) of work. In addition, compensatory payments (equivalent to 30 per cent of hourly wages) are granted to those who carry out their work at certain shifts. The Committee notes the above information.

2. Further to its previous observation, the Committee requests the Government to supply information on the application in practice of the provisions of the Organic Labour Act amended in 1997. It also asks the Government to respond in its next report to the points raised in the request which is addressed directly to it.

Zambia (ratification: 1979)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee notes that the observations have been received from the Zambia Congress of Trade Unions (ZCTU), pointing out that wages have not been paid in most local authorities for periods ranging from two to 19 months, affecting close to 10,000 workers and 100,000 people, including their families. These observations were transmitted to the Government for its comments in September 1998. In the absence of response from the Government, the Committee invites it to send its observation on the issue raised with reference to the provision of *Article 12(1) of the Convention* regarding the regular payment of wages.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Central African Republic, Comoros, Djibouti, Libyan Arab Jamahiriya, Saint Lucia, Sierra Leone, Venezuela.*

Convention No. 96: Fee-Charging Employment Agencies (Revised), 1949

Pakistan (ratification: 1952)

Part II of the Convention. 1. The Committee takes note of the information supplied by the Government in its report in reply to its previous observation. The Committee recalls that it had in particular requested the Government to give details of the measures taken with a view to adopting the draft Rules under the Fee-Charging Employment Agencies (Regulation) Act, 1976, to which the Government had referred for many years, so as to undertake the abolition of fee-charging employment agencies "within a limited period of time", but not "until a public employment service is established", in accordance with *Article 3* of the Convention. The Committee regrets to note that the report contains no signs of progress on this matter. The Committee urges the Government to take the necessary measures in the near future and to report on the progress towards achieving adoption of the Rules.

2. The Committee notes the information regarding measures taken to supervise overseas employment promoters under the Emigration Ordinance of 1979 and rules thereunder. It notes that a licence is issued to these agencies for an initial period of three years, then renewed for periods which vary depending on the way in which the agencies operate. The Committee recalls that, under *Article 5, paragraph 2(b),* of the Convention, these agencies are required to be in possession of a yearly licence renewable at the discretion of the competent authority. It asks the Government to indicate in its next report the measures taken or envisaged to give full effect to this provision of the Convention in respect of overseas employment promoters.

3. The Committee notes the information regarding penalties imposed on overseas employment promoters following contraventions. It asks the Government to continue to supply such information and also to include the information required under *Article 9* of the Convention on the number of these agencies, as well as on the nature and volume of their activities. Please supply all available information on the application of the Convention in practice *(Part V of the report form).*

Syrian Arab Republic (ratification: 1957)

Part II of the Convention. The Committee notes the Government's report which argues in some detail that sections 19 and 22 of the Labour Code (Act No. 91 of 1959), which provide for the establishment of private employment agencies, do not violate the Convention. This topic has been the subject of direct requests and observations by the Committee since 1966.

In essence, the Government argues that there are no private employment agencies and further, if there were, sections 19 and 22 of the Labour Code, which prohibit fee collection from the worker, are not contrary to the Convention. However, the Committee has pointed out many times that the Convention's requirement for exemption from the payment of a fee must cover both the employer and the worker. It is not enough to exempt only the worker. Therefore, the Committee repeats its request that the Government repeal sections 18 to 22 of the Labour Code as soon as possible.

The Committee also draws the attention of the Government to the provisions of the Private Employment Agencies Convention, 1997 (No. 181), and in particular Articles 16 and 17, which the Government may wish to consider for the future.

In addition, the Committee requests the Government again to amend section 11 of the Labour Code as well as to extend to domestic and similar workers the application of the chapter concerning placement of unemployed persons.

[The Government is asked to report in detail in 2000.]

Turkey (ratification: 1952)

Part III of the Convention. The Committee took note of the Government's report, and of the comments of the Turkish Confederation of Employers' Organizations (TISK) and the Confederation of Turkish Trade Unions (TÜRK-İŞ) attached thereto. It notes that while the TISK considers the Convention to be fully respected, the TÜRK-İŞ alleges that private, fee-charging employment agencies have developed rapidly in recent years, without any measures being taken to halt their illegal activities. In this connection, the Committee notes the information supplied by the Government regarding the legal action taken by the State Employment Agency against violation of the relevant provisions of Act No. 1475 on employment. It would be grateful if the Government would continue to supply such information in its future reports *(Part V of the report form).*

The Committee further notes that the Government has decided to end the public monopoly on placement and to authorize the activities of private employment agencies. In the view of the TISK, which refers in this regard to the revision of the Convention by the Private Employment Agencies Convention, 1997 (No. 181), the legislation should be amended accordingly. The Government mentions a preliminary draft Bill which would enable the State Employment Agency to issue authorizations to private employment agencies.

The Committee takes note of the Government's assurance that the draft is in conformity with the provisions of the Convention. It invites the Government to give details in its next report of how the new legislation would give effect, in particular to *Articles 10 and 11* of the Convention, and to transmit copies of the new texts to the ILO on their adoption. With reference to its observation on the application of Convention

No. 88, the Committee also asks the Government to describe the measures taken to ensure effective cooperation between the State Employment Agency and private employment agencies.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Argentina, Belgium, Bolivia, Costa Rica, Côte d'Ivoire, Djibouti, Italy, Malta, Mexico, Poland, Spain, Swaziland.*

Information supplied by *Luxembourg* and *Norway* in answer to a direct request has been noted by the Committee.

Convention No. 97: Migration for Employment (Revised), 1949

A request regarding certain points is being addressed directly to *Saint Lucia.*

Convention No. 98: Right to Organise and Collective Bargaining, 1949

Albania (ratification: 1957)

The Committee notes the Government's report. The Committee notes with interest that under section 2(3) of Act No. 8095 of 21 March 1996, as amended by Act No. 8300 of 12 March 1998, conditions of employment for employees in the administrative services, education and health are governed by the Labour Code and that employees in these sectors may negotiate their conditions of employment through collective bargaining. The Committee requests the Government to indicate in its next report the categories of public servants deemed to exercise their functions in the administration of the State and, consequently, excluded from the protection of this Convention.

Argentina (ratification: 1956)

The Committee notes the Government's report.

1. *Article 4 of the Convention.* The Committee recalls that for a number of years it has been commenting on the legal provisions which impede free collective bargaining by stipulating that collective agreements which go beyond enterprise level be submitted for approval to the Ministry of Labour. In considering whether official approval should be given, the Ministry considers not only whether a collective labour agreement contains clauses violating the public order standards of Acts Nos. 14250 and 23928, but also whether it complies with the following criteria: productivity, investment, and the introduction of technology and vocational training systems (section 3 of Act No. 23545, section 6 of Act No. 25546 and section 3ter of Decree No. 470/93). The Committee also recalls that, in its previous observation, it had noted the Government's statement to the effect that legislation reforming the approval procedure for collective agreements and the requirement for analysis of collective agreements prior to approval had been drafted. The Committee notes that in recent practice the Government has not refused to approve any collective agreement under the above criteria. The Committee, however, once again requests the Government to take the necessary measures to amend or repeal the provisions in question in order to come into conformity with the Convention.

2. Similarly, in its previous observation the Committee had commented on the contents of Decree No. 1553/96 (endorsing and granting wider powers of intervention to the administrative authority in the collective bargaining process) and Decree No. 1554/96 (stipulating that in cases where the parties do not reach agreement on the sectors to be covered by negotiations, those proposed by the enterprise shall receive precedence and be submitted to the administrative authority). In this regard, the Committee notes with satisfaction that: (1) these Decrees have been revoked by Act No. 25013, reforming the labour legislation, adopted on 2 September 1998; and (2) the provisions of the Decrees referred to by the Committee, have been repealed by Decree No. 50/99 of 29 January 1999.

3. The Committee notes that under section 14 of Act No. 25013 of September 1998 "representation of workers in collective bargaining shall be incumbent on the most representative trade union organization, which may delegate its bargaining power to a decentralized body". Under these circumstances, the Committee considers that, on the basis of the principle of free and voluntary negotiation of collective agreements laid down in *Article 4* of the Convention, negotiations at enterprise level should depend essentially on the will of the parties of that level. While an enterprise-level workers' organization may voluntarily cede authority to a higher level, legislation should not dictate which level of a workers' organization has authority to bargain. The Committee requests the Government to take the necessary measures to amend national legislation to that effect and to provide information in its next report on measures taken in this regard.

In addition, a request is being addressed directly to the Government.

Australia (ratification: 1973)

The Committee takes note of the oral and written information supplied by the Government to the Conference Committee in June 1998 and the detailed discussion that took place thereafter. The Committee notes the Government's detailed report, including various decisions of the Australian Industrial Relations Commission and the Federal Court of Australia annexed thereto. The Committee also takes note of the comments of the Australian Council of Trade Unions (ACTU) and the Government's replies to these comments. The Committee also notes that the Government has once again not included detailed information in its report concerning the application of the Convention in Victoria and the Australian Capital Territory, and urges the Government to forward this information.

Federal jurisdiction

The Workplace Relations Act, 1996. Noting the Government's indication that the Federal Workplace Relations Act (the Act) applies to the State of Victoria and the Northern Territory, the Committee's comments on the Act as set out below are also relevant with respect to those jurisdictions.

Article 1 of the Convention. The Committee notes that it has previously raised concerns with respect to the exclusion (or potential exclusion) of certain categories of workers from protection against dismissal based on trade union membership and activities (sections 170CK and 170CC); and inadequate protection against discrimination based on the negotiation of a multiple business agreement (sections 170MU, 170ML, 170LC, 298K, 298L). The Committee observes, as the Government points out, that while some categories of employees are excluded (or may be excluded by regulation) from obtaining access to the remedies available under section 170CK (which prohibits termination of employment on certain grounds, including trade union membership or participation in trade union activities), these persons are covered under section 298K (which prohibits dismissal or other prejudicial conduct for prohibited reasons, which include membership in an industrial association and specified activities related thereto). However, the Committee considers that the scope of the two anti-discrimination provisions is sufficiently different, in particular since the protection provided under section 170CK potentially applies to a wider range of trade union activities, and makes specific reference to refusing to negotiate an Australian Workplace Agreement (AWA) and that the exclusions from the protection under that section remain problematic. The Committee, therefore, requests the Government to take the necessary measures to amend the Act to ensure that all groups of workers are protected under the anti-union discrimination provisions of section 170CK. The Committee also requests the Government to keep it informed of the status of the Workplace Relations Amendment (Unfair Dismissals) Bill.

With respect to discrimination based on the negotiation of multiple business agreements, the Committee, while noting the Government's statement that section 298L would in some circumstances provide relevant protection, continues to have concerns regarding the clear wording of the Act (section 170LC(6)) excluding the negotiation of multiple business agreements from being considered "protected action" under section 170ML. The Committee, therefore, again requests the Government to take the necessary measures to ensure that workers are adequately protected against discrimination based on trade union activities, including negotiating a collective agreement at whatever level the parties deem appropriate.

Article 4. In a previous observation, the Committee raised the following issues of concern with respect to the Act: primacy is given to individual over collective relations through the AWA procedures, thus collective bargaining is not promoted; preference is given to workplace/enterprise-level bargaining; the subjects of collective bargaining are restricted; an employer of a new business appears to be able to choose which organization to negotiate with prior to employing any persons. The Committee notes the Government's report and its submissions before the Conference Committee setting out the various ways in which collective bargaining is still provided for and taking place, including concerning multiple businesses, and the various safeguards in the AWA procedure. Having closely considered the Government's explanations and observations, the Committee remains of the view that the Act gives primacy to individual over collective relations through the AWA procedures. Furthermore, where the Act does provide for collective bargaining, clear preference is given to workplace/enterprise-level bargaining. The Committee, therefore, again requests the Government to take steps to review and amend the Act to ensure that collective bargaining will not only be allowed, but encouraged, at the level determined by the bargaining parties.

On the issue of strike pay as a matter for negotiation, the mere fact that there are deductions for days on strike is not contrary to the Convention. The Committee notes, however, that it is incompatible with the Convention for legislation to impose such deductions in all cases (as under section 187AA of the Act). In a system of voluntary collective bargaining, the parties should be able to raise this matter in negotiations. The Committee requests the Government to amend the legislation accordingly.

Concerning the preselection by an employer of a bargaining partner before workers are employed ("greenfield agreements", section 170LL), the Committee notes that this is permissible only for the first agreement. However, since the Act permits the duration of the first agreement to be up to three years (section 170LT(10)), such a provision potentially prejudices the workers' choice of bargaining agent for a considerable period. The Committee requests the Government to review and amend the Act so that the choice of bargaining agent is made by the workers themselves, including in the case of a new business.

State jurisdictions

Queensland. Having commented in the past on the similarity between the Workplace Relations Act of Queensland and the Federal Workplace Relations Act, giving rise to the same concerns under the Convention as noted above, the Committee notes with interest that the Workplace Relations Act of Queensland has been repealed. The Government indicates that the Industrial Relations Act, 1999, which was based on recommendations of a task force involving both workers' and employers' representatives, came into force on 1 July 1999. The Committee notes in particular that the Government acknowledges that multi-employer agreements were difficult to make under the former Act, and states that the 1999 Act provides for a wider range of collective agreements to be made than was possible under the limited provisions for single-business agreements under the former Act. The Committee also notes with interest that an employer can no longer preselect the bargaining partner on behalf of potential employees.

South Australia. Noting the system of enterprise agreements that had been put into place, the Committee requested the Government to indicate whether and to what extent collective bargaining can and does take place at levels other than the enterprise level. The Committee notes that, while the Government provides some information concerning enterprise-level agreements, it does not address the Committee's query, and urges it to do so.

Western Australia. The Committee had noted that the Industrial Relations Act, 1979, as amended, contains no provision protecting workers against discrimination on the basis of trade union activities, contrary to *Article 1* of the Convention. The Committee requests the Government to take the necessary measures to amend the legislation to ensure workers are protected against discrimination on the basis of trade union activities and to provide specific remedies and penalties where there has been anti-union discrimination. The Committee had also raised a concern that the Workplace Agreements Act, 1993, as amended, gives preference to individual agreements over collective agreements, thus not effectively promoting collective bargaining. Noting the Government's indication that the legislation does not encourage or promote one type of agreement over another, but merely provides the parties with a choice, the Committee recalls that, in ratifying the Convention, the Government undertook to take appropriate measures to encourage and promote the full development and utilization of machinery for the voluntary negotiation between employers and *workers' organizations* with a view to the regulation of terms and conditions of employment by means of *collective agreements*. By merely allowing collective agreements, along with other alternatives, rather than promoting and encouraging them, the requirements of the Convention are not met. The Committee, therefore, requests the Government to review and amend the legislation to ensure full conformity with the Convention.

The Committee is also addressing a request directly to the Government concerning the federal jurisdiction as well as Queensland, New South Wales and Tasmania.

Belize (ratification: 1983)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation on the following matters:

> The Committee recalls that the sanctions that may be imposed upon an employer found guilty of anti-union discrimination against workers may not exceed $250 or a period of imprisonment of not more than six months (Labour Ordinance, Chapter 234, section 199). Given that the monetary penalties have not been adapted in the light of inflation and do not exert a sufficiently dissuasive effect against acts of anti-union discrimination, the Committee requests the Government to take measures in order to amend the legislation to ensure that it is in full conformity with the Convention. The Committee requests the Government to indicate in its next report the measures it has taken or envisages in this regard.

Bolivia (ratification: 1973)

The Committee notes the Government's report.

Articles 1, 2 and 3 of the Convention. The Committee recalls that for many years it has referred to the need for the legislation to contain provisions protecting those workers who are not trade union leaders against anti-union discrimination, and protecting against any act of interference by employers' organizations in workers' organizations and vice versa. In this connection, the Committee takes due note of the Government's indication that: (1) provision has been made through a Supreme Decree No. 25421 of 11 June 1999 for the prohibition of any anti-union discrimination whatsoever against workers, and also against any act of discrimination or interference by employers' organizations in workers' organizations and vice versa; and (ii) infringements will be penalized in conformity with the General Labour Law and its pertinent provisions.

In this connection, the Committee requests the Government to indicate clearly with its next report what penalties provided for in the law will be applicable, as well as to communicate information on the way in which the system functions in practice.

Articles 4 and 6. The Committee observes that the legislation denies the right to organize to public servants. The Committee stresses that public servants not employed in the administration of the State must have the right to bargain collectively through their organizations. The Committee asks the Government to take steps to amend the legislation accordingly.

Brazil (ratification: 1952)

The Committee notes the Government's report. It also observes that a technical assistance mission took place in the country from 26 to 30 April 1999, and it notes the information communicated by the Government in this regard.

1. *Article 4 of the Convention. Nullity of the provisions of an agreement or pact where these are contrary to the standards established by the government economic policy or the wage policy in force* (section 623 of the Consolidation of Labour Laws

(CLT)). The Committee notes that it is clear both from the Government's report and from the report of the mission that the Government and the social partners are in agreement on the formal repeal of this section, which is not applied in practice, and that the Government envisages an early reform of the legislation. The Committee hopes that this repeal will be undertaken in the near future.

2. *Articles 4 and 6. Right to collective bargaining of public servants not employed in the administration of the State.* The Committee notes from the report of the mission that the recognition of this right for all categories of public servants would entail a constitutional amendment. The Committee also observes that the Executive Secretary for Labour indicated to the mission that discussion on collective bargaining for independent entities and public foundations could take place within the framework of the new administrative reform model, since these entities are not included within basic state functions.

3. Lastly, the Committee notes that during the mission the need was identified to organize a tripartite seminar with the participation of the ILO to discuss the subject of collective bargaining in general, in particular covering bargaining in the public administration and in the public sector.

4. The Committee requests the Government to provide information in its next report on all measures adopted on the abovementioned questions.

Cameroon (ratification: 1962)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation on the following matters:

> The Committee recalls that, since the adoption of the Labour Code in 1992, the Committee has requested the Government to amend or repeal sections 6(2) and 166 of the Labour Code which provides for the imposition of a fine ranging from 50,000 to 500,000 francs on the members of the administration or the management of a non-registered trade union which acts as if the union were registered. In this respect, the Committee notes the Government's statement to the effect that an amendment of the Labour Code is envisaged to this effect. The Committee expresses the firm hope that the Government will take the necessary measures to repeal the provisions to ensure that the founders and leaders of trade unions being established enjoy adequate protection against acts designed to prejudice them by reason of their participation in trade union activities, which is contrary to the provisions of *Article 1 of the Convention*. The Committee again requests the Government to provide the text of any measures taken in this respect in its next report.

Cape Verde (ratification: 1979)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation on the following matters:

> The Committee had observed that workers' and employers' organizations had not availed themselves of the possibilities offered by national legislation for collective bargaining. The Committee reminded the Government that in ratifying the Convention it had undertaken to adopt appropriate measures to *encourage and promote* the full development and utilization of machinery for voluntary negotiation, with a view to the regulation of terms and conditions of employment by means of collective agreements. Under these conditions, the Committee requested the Government to take the measures necessary to implement the

provisions of *Article 4 of the Convention* and hoped that in its next report the Government would be able to provide copies of the texts of collective agreements concluded.

Colombia (ratification: 1976)

The Committee notes the Government's report. The Committee also notes the comments presented by the General Confederation of Democratic Workers (CGTD), the Trade Union of Telecommunication Workers of Santa Fe de Bogotá (SINTRATELEFONOS), the Trade Union of Textile Industry Workers (SINTRATEXTIL) and the World Federation of Trade Unions (WFTU) regarding failure to implement collective agreements and acts of anti-trade union discrimination, and requests the Government to comment thereon.

1. The Committee recalls that for many years it has been emphasizing the need for the category of "public employees", those not engaged in the administration of the State, to benefit from the right to collective bargaining. In this connection, the Committee notes that the Government is examining the possibility of modifying the classification of public servants, by restricting the concept of public employees, above all for the lower echelons. The Committee firmly hopes that the Government will take measures as soon as possible to bring the legislation fully into conformity with the Convention, allowing all public servants who are not employed in the administration of the State to bargain collectively in respect of their employment conditions. The Committee requests the Government to inform it in its next report on all measures adopted accordingly.

2. In its previous observation, the Committee referred to the requirement for industrial or branch unions to comprise more than 50 per cent of the workers in an enterprise in order to be able to bargain collectively (section 376 of the Labour Code, paragraph supplemented by section 51 of Act No. 50). The Committee notes the Government's indication that this provision does not restrict the right to collective bargaining of industrial or branch unions and points out that, if the industrial union has a membership of more than 50 per cent of workers from a particular enterprise, it may take decisions by convening those unionized workers only, and not its total membership, from different enterprises. In this connection, the Committee considers that industrial or branch unions which do not cover more than 50 per cent of the workers in an enterprise should be able to bargain collectively, at least on behalf of their own members, especially in medium and large-sized undertakings. The Committee requests the Government to take steps to amend this provision as indicated and to provide information in its next report on all measures adopted in this regard.

3. Finally, in its previous observation, the Committee had requested the Government to inform it on the right of federations and confederations to bargain collectively. The Committee notes the Government's indication that: (i) first level trade union organizations hold the right to bargain collectively; (ii) second and third level organizations are authorized by law to advise affiliated trade unions in the process of bargaining; and (iii) considering the different activities undertaken by federations and confederations and that the Convention contains no explicit reference obliging the State to amend its legislation on this point, it considers that the current legal provisions may be maintained. On this matter, the Committee recalls that *Article 4 of the Convention*, regarding the promotion of collective bargaining, refers clearly to the right to collective bargaining of workers' organizations in general, with no exceptions. Given these

conditions, the Committee requests the Government, in consultation with the social partners, to take measures to ensure that the right to collective bargaining is also recognized for federations and confederations.

Costa Rica (ratification: 1960)

The Committee notes the Government's report, the information provided by a Government representative to the Conference Committee in June 1999 and the discussion which followed.

Articles 1 and 3 of the Convention. In its previous observations, the Committee had referred to the need to take measures to ensure that procedures were in place for the rapid processing of cases of anti-union discrimination and that court rulings were enforced. In this respect, the Committee notes with interest that: (i) the Constitutional Court has held that the labour inspectorate must comply with the time limit of two months for its investigations; and that (ii) the Government has provided information on draft legislation to amend various sections of the Labour Code, submitted to the Legislative Assembly in November 1998 which have been prepared as part of a process of national dialogue. This draft text envisages an express process (of a maximum duration of 14 days, including appeals against the ruling of the first-level court) in the event of dismissal, accompanied by the imposition of fines in cases where the employer fails to comply with a reinstatement order. The Committee hopes that this draft legislation will be adopted in the near future and requests the Government to inform it of all progress achieved in this respect in its next report.

Article 4. For several years, the Committee has been referring to the non-recognition of the right to collective bargaining of public servants who are not engaged in the administration of the State. In this respect, the Committee notes with interest the information provided by the Government on a new Bill respecting public employment of October 1998, developed through the process of national dialogue, which is currently being examined by the Economic Affairs Commission of the Legislative Assembly and which would extend this right to the public sector. The Committee expresses the firm hope that the legislation on this matter will be adopted in the near future and requests the Government to keep it informed in this respect.

Côte d'Ivoire (ratification: 1961)

The Committee notes the Government's report and observes that it refers to Decree No. 64-453 of 20 November 1964 which establishes sanctions for violations of standards relating to trade union rights.

The Committee had noted that, in respect of protection afforded to workers in general against acts of anti-union discrimination, section 4 of the Labour Code prohibited employers from taking into consideration "membership or non-membership of a trade union or trade union activities of workers for making decisions regarding, in particular, recruitment, conduct and distribution of work, vocational training, advancement, promotion, remuneration, granting of social benefits, discipline or termination of the employment contract". The Committee understands that violations of the provisions of this section of the Labour Code are punishable by the sanctions applicable under the conditions determined by decree (section 100.4 of the Labour

Code). The Committee, therefore, requests the Government to specify the applicable sanctions under Decree No. 64-453 (since it does not specify the amount of the contravention). The Committee recalls that protection against acts of anti-union discrimination against workers requires sanctions which are sufficiently effective and dissuasive.

Croatia (ratification: 1991)

The Committee notes the Government's report.

Article 4 of the Convention. 1. The Committee previously had requested the Government to forward its observations on the decision handed down by the Supreme Court of 7 December 1995 which acknowledged that legislation may modify the substance of a collective agreement concluded for the whole of the public sector. The Committee had requested the Government to provide information on the measures taken to ensure the promotion of free collective bargaining in the public sector with regard to public servants not engaged in the administration of the State. The Committee notes that the Government's report makes no mention of these points and once again requests the Government to provide information in this regard.

2. The Committee notes that the Independent Trade Union of the Croatian Electrical Power Industry and other workers' organizations had presented comments on the application of the Convention and, in particular, the restrictions placed on negotiating pay increases in state enterprises and undertakings through collective bargaining, as a consequence of the decision handed down on 30 December 1997 respecting the application of the remuneration policy. The Committee notes that the Government indicates that since it was the legal authority empowered to administer "state goods", it had taken a series of measures intended for public undertakings which were the property of the State. These measures took the form of proposals and neither impeded nor encumbered the rights of workers; rather, they served as guidelines which employers applied when negotiating pay awards for 1998. The Government considers that employers, to the extent possible, will negotiate wages having due regard to these guidelines. The Committee recalls that legislative provisions are compatible with the Convention where they allow Parliament or the competent budgetary authority to establish an overall open "budgetary package" for wage negotiations provided they leave a *significant* role to collective bargaining. It is essential, however, that workers and their organizations be able to participate fully and meaningfully in designing this overall bargaining framework (see the 1994 General Survey on freedom of association and collective bargaining, paragraph 263). The Committee lacks sufficient information to establish whether, in the present case, workers' organizations were consulted and requests the Government to ensure that prior to fixing wage rates in guidelines trade union organizations are consulted and that these levels, in fact, leave a *significant* role to collective bargaining by the parties concerned.

Democratic Republic of the Congo (ratification: 1969)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation on the following matters:

> The Committee notes the conclusions of the Committee on Freedom of Association with regard to Cases Nos. 1818 and 1833 and Cases Nos. 1905 and 1910, made in

November 1995 and June 1997, respectively, which refer to acts of interference by employers in the private sector and by the public authorities and the violation of the right to collective bargaining.

Article 1 of the Convention. The Committee notes that section 228 of the Labour Code (Legislative Order No. 67/310 of 9 August 1967) prohibits the dismissal of or discrimination against workers by reason of trade union membership or participation in trade union activities and that section 49 of the Labour Code only provides for the payment of compensation in the event that a contract of employment is terminated without due cause. The Committee requests the Government to indicate the protection granted to workers whose contracts are terminated for reasons of trade union membership or activity.

Article 2. The Committee notes that section 229 of the Labour Code obliges employers' and workers' organizations to refrain from acts of interference by each other in their establishment, functioning and administration. In this respect, the Committee again requests the Government to provide information on the protection provided against acts of interference by an *individual employer*.

Article 4. The Committee takes due note of the examination by the Committee on Freedom of Association of the above cases with regard to the refusal by the public authorities to undertake negotiations with the staff of a public service and the refusal to allow certain representative organizations to participate in a joint commission in the public service and requests the Government to specify the measures adopted to encourage and promote the development and utilization of machinery for negotiations between the public authorities and workers' organizations, including workers' organizations in public sector enterprises, to regulate the terms and conditions of employment.

Denmark (ratification: 1955)

The Committee notes the information supplied by the Government in its report. It also notes the conclusions of the Committee on Freedom of Association in Case No. 1971 (see 317th Report, paragraphs 1-61, approved by the Governing Body at its June 1999 session).

1. In its previous comments, the Committee had noted that section 10 of Act No. 408 of 1988 limited the negotiating power of the Danish trade union organization to persons who were considered to be residents of Denmark, and expressed regret that this section of the Act did not aim at encouraging and promoting voluntary negotiations between employers' and workers' organizations, and at allowing workers who were employed abroad Danish ships, but who were not residents of Denmark, to join the organization of their own choosing to defend their interest. The Government states in its report that the two-year agreement concluded in March 1997, between three Danish shipping federations and seafarers' organizations concerning the coverage of collective agreements in relation to foreign seafarers, has been extended. This agreement secures the right of Danish unions to represent for the purposes of collective bargaining foreign seafarers in order to make sure that the agreements concluded reach an acceptable international level. The Committee takes due note of this development which appears to promote the voluntary negotiation of terms and conditions of employment of foreign seafarers employed aboard Danish ships. The Committee requests the Government to indicate in its next report the status of this agreement as well as any measures taken or envisaged to bring section 10 of Act No. 408 into full conformity with *Article 4 of the Convention.*

2. The Committee notes that one of the issues raised before the Committee on Freedom of Association in Case No. 1971 was the application of section 12 of the Conciliation Act which makes it possible for an overall draft settlement to cover collective agreements involving an entire sector of activity even if the organization representing most of the workers in that sector rejects the overall draft settlement. In this regard, the Committee would request the Government to review the legislation, in consultation with the social partners. The Committee requests the Government to keep it informed of any developments in this regard.

Dominican Republic (ratification: 1953)

The Committee notes the Government's report.

Article 4 of the Convention. In its earlier observation, the Committee had noted the requirement for an absolute majority of workers in an enterprise or of workers employed in a particular branch of activity to be represented in order for a trade union to be able to bargain collectively (sections 109 and 110 of the Labour Code). The Committee considered this requirement excessive because, in many cases, it could constitute an obstacle to collective bargaining or even make it impossible. The Committee notes the Government's statement to the effect that whilst no steps have been taken to amend the Labour Code to reduce the majority required to bargain collectively or, at least, to allow a sufficiently representative minority union to conclude collective agreements on behalf of its members, the Government is submitting the Committee's observation to the Consultative Labour Council for review. The Committee also notes with interest the Government's request for ILO technical assistance on this matter. It hopes that the Government shall shortly be in a position to make the necessary amendments and requests the Government to inform it of any developments in this regard.

Ecuador (ratification: 1959)

The Committee notes the Government's report, as well as the information provided by a Government representative to the Conference Committee in June 1999, and the subsequent debate.

In its previous observation the Committee recalls that it had referred to the need to amend: (1) section 3, paragraph (g), of the Civil Service and Administrative Careers Act so that workers in official departments or other public sector institutions as well as private sector institutions in the social or public spheres can enjoy the rights guaranteed by the Convention; (2) include in its legislation provisions which guarantee protection against acts of anti-union discrimination at the time of recruitment; and (3) amend section 229, paragraph 2, of the Labour Code, regarding submission of a draft collective agreement, so that minority trade union organizations which do not include more than 50 per cent of workers subject to the Labour Code may negotiate, on their own or jointly, on behalf of their own members.

In this respect, the Committee regrets that the Government's report does not refer to these questions in a detailed manner. However, the Committee notes that the Government indicates its intent to guarantee the spirit and practice of the Convention and that new efforts are being made both in the Legislature and in other instances to achieve this. The Committee hopes that these will soon yield concrete results. The

Committee expresses the firm hope that the measures adopted will permit, as soon as possible, the amendment of these provisions according to the terms of the Convention.

Finally, the Committee recalls that in its previous observation it had referred to the need to extend the right to organize and bargain collectively, not only at the national level but also at local and workplace levels, to teaching staff and heads of educational institutions as well as those who carry out technical and professional functions in the education sector (who are subject to the laws pertaining to education and the salary scales of teachers), referred to in section 3(h) of the Civil Service and Administrative Careers Act. In this regard, the Committee notes the Government's indication that the right of association of teaching staff is guaranteed throughout the entire country by the National Union of Education Personnel (UNE), by UNE branch offices at local level in each province and that teaching staff may also form associations in each educational institution as happens in practice. In this connection, so as to bring the legislation into full conformity with practice and with the provisions of the Convention, the Committee requests the Government to take the measures to amend the abovementioned legislation.

The Committee asks the Government to transmit in its next report detailed information on any progress achieved as regards the above questions.

Egypt (ratification: 1954)

The Committee notes the Government's report. The Committee recalls that, for a number of years, it has been drawing the Government's attention to the need to amend section 87 of the Labour Code, as amended by Act No. 137 of 1981, which provides that any clause of a collective agreement which is liable to impair the economic interests of the country shall be null and void. The Committee had observed that such a requirement is liable to undermine the principle of voluntary negotiation contained in *Article 4 of the Convention.*

The Government states that this point has been taken into consideration in the formulation of the draft consolidated Labour Code, Book IV, Chapter III, which is devoted to collective labour agreements.

The Committee notes the Government's statement that it will provide a copy of the new Act as soon as it is adopted and promulgated and expresses the hope that it will be in full conformity with the provisions of *Article 4.*

Ethiopia (ratification: 1963)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation on the following matters:

> *Articles 4 and 6 of the Convention.* The Committee notes that the Constitution of 8 December 1994 grants civil servants the right to organize and to conclude agreements with their employers (section 42). The Government had indicated in its report that specific legislation is being prepared to this end and will be sent to the ILO as soon as it is promulgated.
>
> The Committee requests the Government to indicate in its next report any progress made towards adoption of legislation ensuring the recognition, both in law and in practice, of the right to voluntary negotiation of employment conditions for public servants, with the sole possible exception of those engaged in the administration of the State.

Fiji (ratification: 1974)

The Committee notes the Government's report.

1. *Article 2 of the Convention.* The Committee had requested the Government to provide information in its next report on the contents of the 1996 report of the subcommittee of the Labour Advisory Board with regard to the measures to be taken to guarantee adequate protection (accompanied by sufficiently effective and dissuasive sanctions) to workers' organizations against acts of interference by employers or their organizations. In view of the fact that the Committee has been commenting on this issue for several years, it expresses the firm hope that the Government will take the necessary measures in the very near future to ensure full compliance with the Convention on this point.

2. *Articles 3 and 4.* (a) In relation to the Fiji Trade Union Congress' (FTUC) previous comments that the Vatukoula Joint Mining Company has engaged in delaying tactics and has challenged the report of the Commission of Inquiry concerning the refusal by the company to recognize an independent registered Fiji Mineworkers' Union, the Committee requests the Government to inform it of the court's decision in this matter once it is issued.

(b) In response to the Committee's previous comments that the Trade Union (Recognition) Act was silent as to the position of a union which did not represent 50 per cent or more of the employees in a bargaining unit, the Government had pointed out that the amendment of this Act had led to a multiplicity of unions in one undertaking all of which were granted bargaining rights. The Committee notes the Government's indication that the Trade Unions (Recognition) Act (Amendment) Decree of 1991 has been repealed. The Committee requests the Government to amend the Trade Union (Recognition) Act to extend collective bargaining rights, at least on behalf of their members, to the unions in a bargaining unit even when none of them covers 50 per cent of the employees in this unit.

3. *Article 4.* The Committee had noted previously that section 10 of the Counter-Inflation (Remuneration) Act allowed for the restriction or regulation, by order of the Prices and Incomes Board, of remuneration of any kind, and stipulated that any agreement or arrangement which did not respect these limitations would be illegal and deemed to be an offence. The Committee had considered, however, that the powers vested under the Act in the Prices and Incomes Board did not meet the criteria for acceptable limitations on voluntary collective bargaining and had asked the Government to keep it informed of any application in practice of section 10 of the Act. In this context, the Government states in its report that section 10 of the Act has been suspended and there is no immediate plan to reactivate it; however, the Remuneration Guideline is still in place.

The Committee recalls that if, under an economic stabilization or structural adjustment policy, for compelling reasons of national economic interest wage rates cannot be fixed freely by means of collective bargaining, restrictions should be applied as an exceptional measure and only to the extent necessary, should not exceed a reasonable period and should be accompanied by adequate safeguards to protect effectively the standard of living of the workers concerned (see General Survey on freedom of association and collective bargaining, 1994, paragraph 260). Since these wage ceilings date back to 1986, the Counter-Inflation (Remuneration) Act cannot be considered to be an exceptional measure introduced for a reasonable period of time. The Committee would accordingly ask the Government to take the necessary measures to amend section 10 of the Act in order to ensure full compliance with the Convention on this point.

Finland (ratification: 1951)

The Committee notes the information supplied by the Government in its report as well as the observations of the Central Organization of Finnish Trade Unions (SAK), the Confederation of Unions for Academic Professionals (AKAVA) and the Finnish Confederation of Salaried Employees (STTK) transmitted by the Government in its report.

1. The Committee had requested the Government to send its comments on the observations by SAK and AKAVA according to which: (a) no collective agreement applies to senior salaried staff in the service sector; (b) this staff should be mentioned in the Collective Agreements Act for collective bargaining purposes. The Committee notes the Government's statement with regard to point (a) that there is no legislative impediment to making collective agreements for senior white-collar personnel in the service sector. According to the Government the issue here is the unwillingness of the relevant employer and employee organizations to conclude a collective agreement.

With regard to point (b) the Government states that according to section 1 of the Collective Agreements Act, a collective agreement means an agreement which one or several employers or a registered association of employers concludes with one or several registered associations of employees. The Collective Agreements Act does not demarcate or define employee or employer groups. Thus, the Act covers all employee groups, including senior white-collar personnel.

The Committee takes due note of this information.

2. The STTK indicates that the existence of "savings agreements" (i.e. local collective agreements for civil servants and other state employees deviating from nationwide collective agreements and whose explicit purpose has been the saving of costs) has led to a situation where the workers' organizations and their members have resorted to litigation and industrial action to defend their work conditions and collective agreements. The Government notes that workers' organizations have litigated many cases where the members of an organization excluded from the "savings agreements" have been laid off as a cost-saving measure on the grounds that the employer's actions violated, inter alia, the principle of equal treatment. Nevertheless, the courts have held that the lay-off of members of an organization excluded from the "savings agreement" did not violate the principle of equal treatment (e.g. the sentence of the Labour Court 17/1996 and file copy 2106 of the Supreme Administrative Court of 30 September 1998). The Committee also notes the Government's statement that the number of such "savings agreements" has decreased sharply from 337 in 1994 to 23 in 1998.

Gabon (ratification: 1961)

The Committee regrets that the Government has not forwarded either its report or its comments concerning the communication by the Confederation of Gabonese Free

Trade Unions (CGSL), dated 20 May 1998, and the communications of the Federation of Energy, Mines and Allied Enterprises dated 14 May and 9 November 1998. These communications refer to acts of anti-union discrimination in different enterprises and to obstacles to collective bargaining. The Committee requests the Government to send its comments in this regard and recalls that the Convention requires a guarantee of adequate protection against acts of anti-union discrimination, and provides for the promotion of collective bargaining.

[The Government is asked to report in detail in 2000.]

Germany (ratification: 1956)

The Committee notes the Government's report. With reference to the collective bargaining rights of teachers, the Government states that the procedure for the participation of central trade union organizations in the formulation of the general regulation of conditions for civil servants pursuant to section 94 of the Federal Civil Servants Act is based on an agreement between the Federal Ministry of the Interior and the central organizations of the relevant trade unions, which was concluded in 1993 and revised in 1996. The Government points out that following one union's abrogation of this agreement on 31 December 1998 (the agreement still applies to the other unions), a pilot project was launched with the unions' participation with the aim of extending participation rights. On the basis of the outcome of that project, there will be discussions with the unions on ways of further developing the participation process. The Government is nevertheless of the view that the legal position of civil servants in Germany and the actual methods used to determine their employment conditions meet the requirements of the Convention, even without collective bargaining.

While taking note of the Government's comments, the Committee reiterates once again that it cannot allow the exclusion from the terms of the Convention of large categories of workers employed by the State merely on the grounds that they are formally placed on the same footing as public officials engaged in the administration of the State and who, by the functions, are directly employed in the administration of the State – such as, for example, civil servants employed in government ministries and other comparable bodies (see 1994 General Survey on freedom of association and collective bargaining, paragraph 200). The Committee considers that teachers carry out duties different from officials in the administration of the State, and therefore should enjoy the guarantees provided for under *Article 4 of the Convention.*

In the light of the above comments, the Committee invites the Government, together with the trade union organizations concerned, to study ways in which the current system could be developed so as to ensure a proper application of the Convention. In this regard, the Committee notes that the pilot project launched in 1999 with the participation of the unions concerned may provide a suitable mechanism for such an effort. The Committee requests the Government to keep it informed of the outcome of that project.

Ghana (ratification: 1959)

The Committee notes the information supplied by the Government in its report. The Committee recalls its previous comments which referred to the need to repeal the

1985 Provisional National Defence Council (PNDC) Law 125, section 2 of which prohibits the application of the collective agreement to the Ghana Cocoa Board in cases where the Board decides to declare workers redundant for economic reasons, and section 3 of which cancels the provisions of collective agreements with respect to redundancy awards in the case of redundancies declared for economic reasons.

The Committee notes with satisfaction that the Government indicates in its report that the 1985 (PNDC) Law 125 has been repealed by the Statute Law Revision Act, 1996 (Act No. 516).

Greece (ratification: 1962)

The Committee notes the Government's report.

Article 4 of the Convention. The Committee notes with satisfaction the adoption of Act No. 2738/99 under which workers in the public service may enjoy the right to collective bargaining. The Committee requests the Government to keep it informed in future reports of the application of the above Act.

Guatemala (ratification: 1952)

The Committee notes the Government's report.

The Committee also notes the information of the Government to the effect that in the framework of technical cooperation the Office has provided it with a draft to address the comments of the Committee, and the Tripartite Committee concerning international labour issues is working on preparing draft reforms by consensus to put before the Congress of the Republic.

The Committee had asked the Government to amend section 2(d) of the Regulation for the procedures of negotiation, official approval and rejection of collective agreements, dated 19 May 1994, which requires a draft collective agreement to be submitted to the General Labour Inspectorate together with the certification of the fact that the General Assembly of the trade union in question voted, by a majority of two-thirds of its total membership, to authorize those serving on its executive committee to conclude, approve and endorse, subject to a referendum or definitively, the draft agreement, since it considered that the required percentage was too high and that it could well obstruct the conclusion of collective agreements. The Committee notes that the Government reports the existence of a tripartite committee to draft reforms in this regard, and asks the Government to take the measures necessary to ensure that the point in question comes before the Committee, and to keep it informed in this connection.

Equally, regarding Legislative Decree No. 35-96, which under its section 2(a) provides that bargaining in respect of collective agreements or conventions in the public sector shall take into account the legal possibilities of the general state income and expenditure budget, the Committee requested the Government to establish a mechanism whereby trade union organizations and employers are adequately consulted so as to be able to express their points of view to the financial authorities sufficiently in advance, so that these authorities may take due account of them when formulating the budget. The Committee notes that the Government indicates in its report that section 53(b) of the Labour Code provides that workers may denounce a collective agreement in force at least one month before its expiry date. This means that the denunciation and subsequent consultations, where the workers may express their point of view before the financial authorities, may take place sufficiently in advance prior to the elaboration and approval of the State Budget. The Committee notes that while the period allowed for consultation is adequate, no legislation has been introduced to ensure the consultation process. Consequently, the Committee again requests the Government to take the measures necessary to amend the legislation as indicated and inform it in its next report in this connection.

Guinea (ratification: 1959)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation on the following matters:

> *Articles 1 and 2 of the Convention.* The Committee observes that section 249 of the Labour Code prohibits any clause in a collective agreement which directly or indirectly restricts the freedom of workers to join the union of their choice; not to join a union, or to withdraw from a union and which provides for a fine in the event of non-compliance, and that sections 277 to 282 provide protection for trade union representatives. The Committee would remind the Government that legislation should contain specific provisions to protect workers against anti-union discrimination at the time of recruitment and during employment to protect workers and their organizations against acts of interference by employers and that these provisions should be accompanied by effective and expeditious procedures and sufficiently dissuasive sanctions. It requests the Government to take measures in the above-indicated sense.

Haiti (ratification: 1957)

The Committee notes the Government's report.

In its previous comments, the Committee had requested the Government to provide information on developments concerning: (i) the adoption of a specific provision envisaging protection against anti-union discrimination at the time of recruitment; (ii) the adoption of provisions coupled with effective and expeditious procedures and sufficiently dissuasive sanctions; guaranteeing workers general and adequate protection against acts of anti-union discrimination; and (iii) the amendment of section 34 of the Decree of 4 November 1983 which empowers the Social Organizations Service of the Department of Labour and Social Welfare to intervene in the elaboration of collective agreements.

The Committee regrets that while the Government indicates its intent to adopt other measures in order to give effect to these provisions of the Convention, it continues to respond in very broad terms on the specific points above.

The Committee once again expresses its firm hope that the Government will take the necessary steps to bring its legislation into full conformity with the provisions of the Convention and requests the Government to keep it informed of any developments in this regard.

Honduras (ratification: 1956)

The Committee notes the Government's report. It also notes the comments submitted by the Single Confederation of Honduran Workers (CUTH) with regard to application of the Convention.

The Committee recalls that for years it has referred to the need for legislation to provide sufficiently effective and dissuasive sanctions against acts of anti-union discrimination and acts of interference by employers or their organizations in trade union affairs. The Committee also recalls that in its previous comments it took note of a preliminary draft reforming the Labour Code of December 1995 which strengthens measures and sanctions against acts of anti-union discrimination. In this respect, the Committee notes that the Government makes no reference to this preliminary draft in its report; rather, it refers only to the Labour Code amended by Decree No. 978 of 1980 which provides sanctions against persons who hinder the full right to freedom of association. The Committee notes that the CUTH states that legislation does not provide sanctions to punish employers who violate the rights set out in the Convention. In these circumstances, the Committee requests the Government to supply information on the application in practice of the provisions of the Labour Code which sanctions acts of discrimination and interference and to texts of administrative and judicial decisions on this matter.

Indonesia (ratification: 1957)

The Committee takes note of the Government's report, as well as of the information supplied to the Conference Committee in June 1998 and the detailed discussion which took place thereafter. The Committee further notes the report of the direct contacts mission which visited the country in August 1998 and which had the mandate of assisting the Government in ensuring that its draft labour legislation was brought into full conformity with Conventions Nos. 87 and 98. Finally, the Committee notes the conclusions of the Committee on Freedom of Association in Case No. 1773 (see 316th Report, paragraphs 570-617, approved by the Governing Body at its June 1999 session).

In its previous observations, the Committee had noted with concern that the Manpower Act No. 25 of 1997 (Indonesian Labour Bill of 1997) did not ensure a better protection of the rights guaranteed by the Convention and had requested the Government to ensure that the draft legislation was amended in order to address the following points which were raised in the Committee's previous comments:

- the need to strengthen the protection of workers so as to cover acts of anti-union discrimination at the time of recruitment or during the employment relationship (including dismissal and other forms of prejudicial action, such as transfers or demotions) accompanied by sufficiently effective and dissuasive sanctions *(Article 1 of the Convention)*;
- the need to adopt specific legislative provisions to protect workers' and employers' organizations against acts of interference by each other accompanied by sufficiently effective and dissuasive sanctions *(Article 2)*; and
- the need to lift the impediments to free collective bargaining *(Article 4)*.

In this regard, the Committee notes the Government's statement that the implementation of Manpower Act No. 25 of 1997 has been delayed until 1 October 2000 during which time it is being reviewed with ILO technical assistance in order to ensure its conformity with Convention No. 98. The Government also indicates that a draft Trade Union Bill and a draft Labour Disputes Settlement Bill, which were drawn up with ILO technical assistance, have been submitted to the Cabinet Secretariat.

The Committee takes note of these legislative developments with interest and trusts that the draft legislation will ensure full protection of the rights guaranteed by the Convention. It requests the Government to send copies of the Manpower Act No. 25 of 1997, the draft Trade Union Bill as well as the draft Labour Dispute Settlement Bill once they have been adopted. It requests the Government to keep it informed of any developments in this regard.

Iraq (ratification: 1962)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation on the following matters:

> *Articles 1 and 4 of the Convention.* The Committee had observed that the Labour Code (No. 71 of 1987) and Act No. 52 of 1987 respecting trade union organizations contain no provisions to ensure the application of *Articles 1 and 4* of the Convention. It notes that the amendments referred to previously are still under consideration and study and that the Government will provide the text as soon as it is adopted. The Committee expresses the hope that the amendments will be adopted soon and that they will take into account its comments, so as to introduce into the legislation provisions to the effect of guaranteeing the protection of workers against all acts of anti-union discrimination, enforceable by sufficiently effective and dissuasive sanctions, and to encourage and promote the full development and utilization of machinery for voluntary negotiation of collective agreements in the private, mixed and cooperative sectors.
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> *Articles 1, 4 and 6.* The Committee also observed that Act No. 150 of 1987 respecting public servants does not contain specific provisions to ensure that the guarantees of the Convention are applied to public employees not engaged in the administration of the State. It had asked the Government to supply copies of the laws and regulations referred to in the matter and applicable to the State and public enterprises and independent public institutions. The Committee had also asked for information on how negotiations are conducted in practice in the abovementioned establishments (for example number of agreements concluded, number of public employees covered, etc.).
>
> The Committee recalls that public employees not engaged in the administration of the State should under the terms of the Convention enjoy adequate protection against anti-union discrimination and be granted the right to negotiate their terms and conditions of employment collectively.
>
> The Committee trusts that the Government will take the necessary measures to apply the Convention and that it will provide the abovementioned texts and information with its next report.

Jamaica (ratification: 1962)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation on the following matters:

> The Committee had referred to the denial of the right to collective bargaining in a bargaining unit when no single union represents at least 40 per cent of the workers in the unit in question or when, if the former condition is satisfied, the union engaged in the procedure of obtaining recognition for collective bargaining purposes does not obtain 50 per cent of the votes of the total number of workers (whether they are affiliated or not to this union), where a ballot is requested by the trade union (section 5(5) of Act No. 14 of 1975 and section 3(1)(d) of its Regulation). The Committee considers that where there is no collective agreement and where a trade union does not obtain 50 per cent of the votes of the

> total number of workers required by law, this trade union should be able to negotiate at least on behalf of its own members.
>
> The Committee also considers that where one or more trade unions are already established as bargaining agents, a ballot should be made possible when another trade union claims that it has more affiliated members in this bargaining unit than those trade unions, and thereby invokes its most representative status in the unit in order to be considered as a bargaining agent. The Committee, therefore, requests the Government to take the necessary measures to amend its legislation to this effect and to keep it informed in this respect.

Japan (ratification: 1953)

The Committee notes the information supplied by the Government in its report. The Committee also notes the conclusions of the Committee on Freedom of Association in Case No. 1897 [see 308th Report, paras. 451-480, approved by the Governing Body at its November 1997 session]. Finally, the Committee notes the comments of the Japan National Hospital Workers' Union (JNHWU) and the Japanese Trade Union Confederation (JTUC-RENGO). The Committee notes the recent observations of JTUC-RENGO dated 29 October 1999 and requests the Government to reply thereto.

1. *Promotion of negotiation rights of public employees who are not engaged in the administration of the State.* In its previous comments, the Committee had recalled that the capacity of public employees who were not engaged in the administration of the State to participate in the process of the determination of their wages was substantially limited.

In its report, the Government reiterates its previous statements concerning the steps taken by the National Personnel Authority (NPA) to hear the views of public employees' organizations before making its recommendations to the Government on the revision of remuneration and other working conditions of public employees. For example, in 1998 the NPA held official meetings with public employees' organizations on 223 occasions between January and August. The Government adds that the NPA also makes its recommendations based on surveys on working conditions. After carrying out fact-finding surveys on the remuneration of all 500,000 national public employees and approximately 500,000 employees in nearly 7,600 private establishments nationwide, the NPA makes a detailed comparison of remuneration in the public and private sectors through statistical means and balances pay levels in these two sectors. For example, in August 1998 the NPA recommended that the gap between monthly salaries in the private sector (approximately $3,335) and monthly salaries in the public sector (approximately $3,310) be reduced. The Government indicates that in 1998 salaries have been amended in accordance with that recommendation.

The Committee takes note of this information but once again asks the Government to consider the measures that could be taken to encourage and promote the full development and utilization of machinery for voluntary negotiation with a view to the regulation of terms and conditions of employment by means of collective agreements for such employees, in conformity with its obligations under *Articles 4 and 6 of the Convention*, and to inform the Committee of the measures taken in this regard.

2. *Exclusion of certain matters from negotiation in national medical institutions.* The Committee observes from the JNHWU's observations and the Government's reply thereto that an agreement was reached between the Ministry of

Health and Welfare and the JNHWU's head office on 26 February 1996 that working conditions related to the two-shift work system in national medical institutions (whereby two nurses are assigned to each unit for night shift), would be the subject of collective bargaining. The Committee notes however that despite the above agreement, negotiations between hospital managers and JNHWU branches have only been held in three out of a total of 77 medical institutions purportedly because no problems relating to working conditions have arisen thereafter. From the information available it appears to the Committee that measures need to be taken to encourage voluntary negotiation of terms and conditions of employment of public employees in national medical institutions. It therefore requests the Government to consider measures which could be taken in this regard and to indicate in its next report any progress made in promoting collective bargaining for these workers.

3. *Exclusion of certain matters from negotiation in state enterprises.* In its previous comments, the Committee had noted that section 8 of the National Enterprise Labour Relations Law excluded matters pertaining to the management and operation of state enterprises from collective bargaining and had requested both the Japanese Trade Union Confederation (JTUC-RENGO) and the Government to provide specific information on the types of issues which might thus be excluded from collective bargaining.

From the information provided by JTUC-RENGO it appears to the Committee that issues such as promotion, demotion, transfer, discharge, seniority and disciplinary action are excluded from collective bargaining in state enterprises because of the application to employees of such enterprises of the National Public Service Law which assimilates the above matters as those relating to "management and operations". In addition, the Committee observes that some of the other matters such as education, training, health, recreation, safety and welfare of personnel are excluded from collective bargaining in state enterprises even if working conditions affected by decisions on such matters may be subject to collective bargaining. In this respect, the Committee considers, that measures taken unilaterally by the authorities to restrict the scope of negotiable issues are often incompatible with Convention No. 98. The Committee notes that discussions regarding the preparation, on a voluntary basis, of guidelines for collective bargaining are a particularly appropriate method to resolve these difficulties (see 1994 General Survey on freedom of association and collective bargaining, paragraph 250). The Committee would therefore invite the Government to prepare, in consultation with the employees' organizations concerned, clear guidelines on negotiable issues in state enterprises and to keep it informed of measures taken in this regard.

Jordan (ratification: 1968)

The Committee takes note of the Government's report.

Article 2 of the Convention. 1. The Government's report states that protection of workers' and employers' organizations against any acts of interference by each other or each other's agents or members is implicitly recognized in the legislation. Furthermore, the Government's report indicates that the Minister of Labour issued a circular for the attention of workers' and employers' organizations in which the conformity of the provisions of the Labour Code No. 8 of 1996 with the provisions contained in *Article 2* is stressed and the necessity of compliance in order to facilitate and regulate the work of such organizations is reiterated. Nevertheless, the Committee asks the Government to take measures to amend the legislation as to provide *expressly* for rapid appeal procedures, coupled with effective and dissuasive sanctions against acts of interference to ensure the application in practice of *Article 2*.

2. The Committee noted in its previous comments that, under section 3 of the Labour Code, domestic servants, gardeners, cooks and the like and agricultural workers are excluded from the application of the Code. The Government's report states that domestic servants, cooks and gardeners have been excluded pursuant to Jordan's legislation, customs and traditions with respect to the privacy of households and on the ground that any interference in their work and their inspection imply violation of family privacy. Regarding agricultural workers, the Government's report points out that they are not included in the provisions of the Labour Code because the agricultural sector represents a minor contribution to the national product and that it is characterized by instability and irregularity since most agricultural projects are seasonal. The Committee recalls that the Convention does not allow for the exclusion of such categories of workers from its scope. Therefore the Committee requests once again the Government to consider introducing legislative measures in order to extend the rights and guarantees of the Convention to domestic servants, gardeners, cooks and the like and agricultural workers.

3. The Committee requests the Government to inform it in its next report of any progress made in these matters.

Kenya (ratification: 1964)

The Committee notes the Government's report.

Articles 4 and 6 of the Convention. Right to bargain collectively of public employees not engaged in the administration of the State and registration of the Kenya Civil Servants' Union. The Committee notes with regret the Government's statement that to date the Civil Servants' Union has not been registered and that therefore it finds it impossible to state who is entitled to membership in the union and in what activities they are permitted to participate. Given that the Convention was ratified 35 years ago, the Committee urges the Government to take measures to bring its legislation into full conformity with *Articles 4 and 6* of the Convention to ensure that public employees, with the sole possible exception of those engaged in the administration of the State, benefit from the guarantees laid down in the Convention, in particular the right to negotiate collectively their terms and conditions of employment. The Committee requests the Government to indicate in its next report the specific measures it has taken in this regard.

Lebanon (ratification: 1977)

The Committee notes the Government's report.

1. *Articles 1 and 2 of the Convention. Protection against acts of anti-union discrimination and acts of interference.* While noting in its previous report that workers and members of trade union committees were protected against dismissal for trade union activities (paragraphs (d) and (e) of section 50 of the Labour Code), the Committee had recalled that the protection provided for in *Article 1* covered not only dismissal but *all*

other discriminatory measures both at the time of taking up employment and in the course of employment (transfers, demotions or other prejudicial acts). It also requested the Government to adopt measures providing for effective and sufficiently dissuasive sanctions, to protect workers' organizations against all acts of anti-union discrimination and to protect workers' and employers' organizations from acts of interference against each other.

The Committee notes that the Government refers to the wording of the draft amendment to section 12 of the Labour Code, which provides protection against any discriminatory measure taken in the employment of workers "for reasons of trade union membership or not". The Committee notes the Government's statement that a parliamentary committee is examining the amendment to the Labour Code and that this body will take due note of the Committee's comments. The Committee requests the Government to ensure that the protection by its amendments covers all the relevant points in *Articles 1 and 2* of the Convention.

2. *Article 4. Excessive constraints on the right to collective bargaining.* The Committee had considered excessive the requirement that a union cover more than 60 per cent of the workers of the undertaking in order to be able to bargain and that the draft collective agreement be approved by two-thirds of the general assembly of unions party to it (sections 3 and 4 of Decree No. 17386/64).

The Committee notes, from the Government's report, that it intends to lower the percentage of representation required for collective bargaining from 60 to 51 per cent. The Committee also notes that the parliamentary committee will study the possibility of further lowering the percentage. In this connection, the Committee must stress that, when no union holds a majority, the unions should be granted the right to bargain collectively, at least on behalf of their own members. The Committee therefore hopes that the Government will ensure that the new legislation gives full effect to *Article 4* by lowering both percentages actually in effect substantially more than contemplated by the draft amendment to the Labour Code.

3. *Article 6. Right of collective bargaining in the public sector and in the public service.* The Committee notes that, according to the Government, under Decree No. 2952 of 20 October 1965, the use of compulsory arbitration in collective bargaining is restricted to three public sector enterprises (port administration, mixed public/private tobacco enterprise and Radio Orient). The Committee recalls that recourse to compulsory arbitration in these three sectors may only be made on request by both parties.

In addition, the Committee notes that, according to the Government, the workers governed by Decree No. 5883 of 1994 do not enjoy the right to collective bargaining. In view of the fact that these workers are not public servants in the administration of the State, the Committee considers that, according to the Convention, they should enjoy the right of collective bargaining.

4. The Committee again requests the Government to ensure that the amendments needed on all the points mentioned should be made to the labour legislation so as to bring it into conformity with the requirements of the Convention and to keep it informed on all progress achieved in this field. Finally, the Committee notes that the text of Legislative Decree No. 112 of 1959 issuing the public service regulations is not included in the report.

Liberia (ratification: 1962)

The Committee notes the Government's report.

Articles 1, 2 and 4 of the Convention. The Committee recalls that for many years it has been emphasizing the need for national legislation to guarantee workers adequate protection against anti-union discrimination at the time of recruitment and during the employment relationship, accompanied by sufficiently effective and dissuasive sanctions. The Committee has also stressed that national legislation must ensure adequate protection of workers' organizations, accompanied by sufficiently effective and dissuasive sanctions, against acts of interference by employers and their organizations. Finally, the Committee had noted that the possibility of engaging in collective bargaining was not offered to employees of state enterprises and other authorities since these categories were excluded from the scope of the Labour Code, whereas under *Article 6* of the Convention, only public servants engaged in the administration of the State are not covered by the Convention.

The Committee notes the information in the Government's report that a draft Decree and a Bill have been submitted to the national authorities. The draft Decree is aimed at recognizing and protecting freedom of association and the right to organize and bargain collectively, and at preventing discrimination in employment and occupation.

The Committee hopes that the draft Decree and Bill will integrate the abovementioned observations of the Committee, to bring the legislation in conformity with the Convention. The Committee requests the Government to keep it informed of any developments in this respect and to transmit the texts of the draft Decree and Bill as soon as they are adopted.

Libyan Arab Jamahiriya (ratification: 1962)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation on the following matters:

> *Article 1 of the Convention.* The Committee had noted that section 34 of Act No. 107 of 1975 concerning trade unions only provided for protection against acts of anti-union discrimination for trade union activities during the employment relationship, but not at the time of recruitment. In these circumstances the Committee requests the Government to take measures to this end accompanied by sufficiently dissuasive sanctions.
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> Moreover, the Committee had noted that public servants not engaged in the administration of the State, agricultural workers and seafarers, did not have adequate protection against acts of anti-union discrimination. In these circumstances, the Committee requests the Government to take appropriate measures, as soon as possible, accompanied by sufficiently dissuasive sanctions, so that workers in the sectors mentioned above enjoy adequate protection against acts of anti-union discrimination at the time of recruitment as well as during the employment relationship.
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> *Articles 4 and 6 of the Convention.* The Committee had noted that sections 63, 64, 65 and 67 of the Labour Code required the clauses of collective agreements to be in conformity with the national economic interest. In this respect, the Committee points out that legal provisions which subject the validity of collective agreements to the approval of the administrative authority for reasons of economic policy considerations in such a way that employers' and workers' organizations cannot freely determine employment conditions, are not in conformity with *Article 4* of the Convention. In these circumstances the Committee

requests the Government to take measures to repeal the above-mentioned provisions of the Labour Code.

In the same way, the Committee had observed that public servants not engaged in the administration of the State, agricultural workers and seafarers do not have the right to bargain collectively. In this respect, the Committee recalls that, under the terms of *Article 6* of the Convention, only public servants who work in the administration of the State (civil servants in government ministries and comparable bodies) may be excluded from its scope. In these circumstances, the Committee requests the Government to take the appropriate measures so that these workers can freely enjoy right of collective bargaining.

The Committee requests the Government to inform it in its next report on any measures taken in relation to the questions raised.

Malaysia (ratification: 1961)

The Committee notes the discussion that took place at the Conference Committee on the Application of Standards in June 1999.

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation on the following matters:

1. Further to its previous comments, the Committee notes the Government's statement that section 15 of the Industrial Relations Act (IRA), which limits the scope of collective agreements for companies granted "pioneer status", is in the process of being amended and that a copy of the repealing legislation will be forwarded to the ILO as soon as it is passed by Parliament. The Committee recalls however that the Government has been referring to "positive measures to repeal section 15" since 1994, and would therefore request it to ensure that section 15 of the IRA is repealed shortly, and to provide a copy of the repealing legislation as soon as it is adopted.

2. The Committee had also referred to the restrictions on collective bargaining contained in section 13(3) of the IRA, with regard to certain matters known as internal management prerogatives (i.e. transfer, dismissal and reinstatement). The Committee considered that issues such as transfer, dismissal and reinstatement should not be excluded from the scope of collective bargaining. The Committee therefore requests the Government to indicate, in its next report, the steps taken or envisaged to bring section 13(3) of the IRA into conformity with *Article 4 of the Convention*.

3. In relation to the Committee's comments on certain restrictions on the right to bargain collectively for public servants other than those engaged in the administration of the State (section 52 of the IRA), the Committee would once again request the Government to provide specific information on how collective bargaining is encouraged and promoted in practice between public employers and public servants other than those engaged in the administration of the State, for example, by supplying information on the number of collective agreements concluded, the different categories and numbers of employees covered, the number of public sector unions acting as bargaining agents, etc.

The Committee asks the Government to provide information on all these points in its next report.

Mauritius (ratification: 1969)

The Committee notes the Government's report.

Article 2 of the Convention. Protection against acts of interference. The Committee notes that the Government's report states that the Draft Amendment Bill, elaborated in the framework of the Labour Law Reform Project, is being examined by the relevant authorities and that consideration is being given to the observations made by the Committee of Experts.

The Committee once again expresses the firm hope that measures will be taken to adopt specific legal provisions in the near future to guarantee effective protection against acts of interference by employers and their organizations in the activities of workers' organizations, and vice versa, and that such protection will be accompanied by effective and sufficiently dissuasive sanctions. The Committee requests the Government to provide information in its next report on any developments in the matter.

Morocco (ratification: 1957)

The Committee notes the Government's report.

1. *Articles 1 and 2 of the Convention.* The Government indicates in its report that the draft text amending the Dahir of 16 July 1957 respecting professional trade unions was adopted by the Council of Ministers in April 1999 and that this amendment, if adopted by the legislature, will bring national legislation into full conformity with the Convention. The Committee hopes that such statutory protection will guarantee adequate protection, coupled with effective and sufficiently dissuasive sanctions against acts of anti-union discrimination and interference referred to under *Articles 1 and 2* of the Convention. The Committee requests the Government to transmit a copy of the text following its adoption and to provide information on its application.

2. *Article 4.* The Committee notes that a Tripartite Committee has been convened to examine the draft Labour Code. The Government reports that this Tripartite Committee has on the one hand suppressed the draft texts respecting compulsory arbitration and on the other hand inserted provision for recourse to arbitration following the consultation and agreement of the parties concerned. The Committee expresses the firm hope that the draft Code will be adopted shortly to guarantee conformity with the Convention. The Committee requests the Government to keep it informed of developments in this regard.

3. *Article 6.* As regards the provisions of the draft Labour Code respecting collective bargaining, the Committee has previously pointed out that these provisions appear to apply to workers in the private sector only. The Committee notes that the Government's report does not indicate whether the right to collective bargaining applies to public employees and public servants who are not employed in the administration of the State. The Committee recalls that, under the terms of *Article 6* of the Convention, these workers should enjoy the rights and guarantees envisaged under this Convention, including the right to collective bargaining. The Committee requests the Government to take the necessary measures in this regard and to communicate any further developments in its next report.

Netherlands (ratification: 1993)

The Committee notes the Government's report.

The Committee had previously considered in the context of the Jobseekers Opportunity Act (WIW) that recourse on a successive basis to pay schemes with a maximum hourly wage which, with a 32-hour working week, resulted in a total income of eight-ninths of the legal minimum wage, could raise problems and had therefore requested the Government to keep it informed in this regard.

The Committee notes with interest the Government's statement that recently the pay range of one of the programmes concerned has been extended and that the restrictions on the duration of the working week have been relaxed. Moreover, the Government has no intention of creating any new schemes in the near future.

The Committee requests the Government to send its comments on the recent communication of the FNV on the application of Conventions Nos. 98 and 154 dated 18 November 1999.

Norway (ratification: 1955)

The Committee takes note of the Government's report.

The Committee had requested the Government to amend its legislation in order to ensure that further recourse would not be had to compulsory arbitration as a means of resolving labour disputes unless both parties to the bargaining process participated voluntarily in the arbitration process or unless compulsory arbitration was only used in cases of essential services in the strict sense of the term. The Committee notes that the Government states in its report that the suggestions from the Labour Law Council regarding amendments to the Labour Disputes Act have not resulted in any draft because such amendments have found considerable opposition among the workers' and employers' organizations. The Committee also notes that the Government points out that its concern is that any legal changes in this area should be approved by most affected organizations. Since only two organizations are represented in the Labour Law Council, the Government has appointed a new committee where all the main organizations are represented. The Government states that this committee will analyse the present collective bargaining system and will propose appropriate changes. The Committee expresses the hope that this new committee will in the very near future find a solution in order to bring the legislation into conformity with the requirements of the Convention. The Committee requests the Government to provide in its next report information on any progress made in this regard.

Pakistan (ratification: 1952)

The Committee notes the information provided by the Government in its report and the comments made by the All Pakistan Federation of Trade Unions (APFTU) in several communications which relate to the prohibition or the limitations of trade union and collective bargaining rights in several industries. The Committee asks the Government to reply to the comments made by the APFTU. The Committee also notes the interim conclusions and recommendations adopted by the Committee on Freedom of Association in Case No. 2006 (see 318th Report of the Committee, paragraphs 324-352, approved by the Governing Body at its November 1999 session).

The Committee's previous comments referred to serious discrepancies between national legislation and the Convention on the following points:

- denial of free collective bargaining in the public banking and financial sectors (sections 38-A to 38-I of the Industrial Relations Ordinance (IRO), 1969);

- denial of the rights guaranteed by Articles 1 (protection against anti-union discrimination), 2 (protection against acts of interference), and 4 (right to bargain collectively) of the Convention for workers in export processing zones (section 25 of the Export Processing Zones Authority Ordinance 1980); and
- lack of sufficient legislative protection for workers dismissed for their trade union membership or activities (the judgement of the Supreme Court of 11 August 1994 restricts the right to judicial recourse in case of dismissal when it is not connected with an industrial dispute thus impeding the possibility of reinstatement provided for under section 25-A of the IRO).

The Committee notes that in its present report the Government states that a Commission for consolidation, simplification, and rationalization of labour laws has been set up. This Commission will look at all discrepancies between national legislation and the Convention.

The Committee once again requests the Government to ensure that the necessary amendments are made to the labour legislation in the very near future so as to bring the latter into conformity with the requirements of the Convention. In preparing such amendments, the Committee would strongly encourage the Government to take into consideration the recommendations of the direct contacts mission which took place in January 1994, as well as those of the tripartite Task Force on Labour which drafted its report in July 1994. The Committee requests the Government to indicate any progress made in this regard in its next report.

Finally, the Committee refers the Government to the comments made under Convention No. 87 concerning certain branches of activity which have been excluded from the Industrial Relations Ordinance and hence from the right to bargain collectively.

Panama (ratification: 1966)

The Committee notes the Government's report. The Committee recalls that in its last observation it pointed out that an overlong conciliation procedure (35 working days) as provided by Decree No. 3 of January 1997, applicable to export processing zones, could impede the application of *Article 4 of the Convention*. The Committee once again requests the Government to take the necessary measures to reduce the length of conciliation procedures and to keep it informed of all measures adopted in this respect.

In addition, the Committee notes the 310th and 318th Reports of the Committee on Freedom of Association (June 1998 and November 1999) which examined Case No. 1931, presented by two employers' organizations. The Committee of Experts shares the opinion of the Committee on Freedom of Association and stresses the need to amend: (i) section 452(2), which permits the imposition of arbitration at the request of one of the parties to the collective dispute; (ii) section 427(3) of the Labour Code which restricts the composition of the representatives of the parties (delegates and advisers) to the collective bargaining process, so that the parties themselves may determine this issue; (iii) section 510(2) of the Labour Code so that the withdrawal by one of the parties from the conciliation procedure does not give rise to disproportionate penalties; and (iv) section 510(2) so that failure to reply to a statement of claims does not entail disproportionate penalties.

The Committee requests the Government to take measures to amend these provisions and to keep it informed in this respect.

Papua New Guinea (ratification: 1976)

The Committee notes the Government's report. In its previous comments, the Committee had asked the Government to amend national legislation which gave the authorities discretionary power to cancel arbitration awards or declare wages agreements void when they were contrary to government policy or national interest (section 42 of the Industrial Relations Act and section 52 of the Public Service (Conciliation and Arbitration Act)). The Committee notes the Government's statement that in a recent development, the Department of Industrial Relations with ILO technical cooperation had undertaken a major "industrial relations policy reform" exercise. The proposed Industrial Relations Act is now going through its final stages of preparation and corrects the two provisions referred to by the Committee. The Committee expresses the hope that the two provisions in question will be repealed in the very near future so as to bring national legislation into conformity with *Article 4 of the Convention*. It asks the Government to inform it of any progress made in this regard in its next report.

Paraguay (ratification: 1966)

The Committee notes the Government's report.

1. *The absence of legislative provisions providing workers who are not trade union leaders with adequate protection against acts of anti-union discrimination.* The Committee notes with regret that the Government's report contains no information on this point. The Committee considers that *Article 1 of the Convention* guarantees *all* workers adequate protection against acts of anti-union discrimination not only at the time of recruitment but also throughout their employment. The Committee again requests the Government to take the necessary measures to ensure that national legislation gives full effect to *Article 1* of the Convention.

2. *Sanctions against non-observance of the provisions relative to the employment stability of trade unionists and acts of interference by workers' and employers' organizations in each other's organizations.* The Committee had noted that the sanctions envisaged in the Labour Code for non-observance of the legal provisions concerning this point (sections 385 and 393 of the Labour Code) are not sufficiently dissuasive. The Committee notes with interest the enactment of Act No. 1416 which amends section 385 of the Labour Code and which enforces new sanctions such as the temporary suspension of employer activities for a period of eight days with full pay to employees, and the cancellation of the employer's register. These measures are applicable in the event of a second or third repeat infraction by the employer where non-compliance affects more than 10 per cent of all employees or in the event of infraction of the job security of trade unionists. The Committee notes that the Government reports that the constitutionality of this Act is before the Supreme Court of Justice, and the provisions of the Act have been stayed pending the Court's decision. The Committee requests the Government to keep it informed of any progress in this regard and on the measures adopted to enhance the existing protection, in conformity with *Articles 1 and 2* of the Convention.

Peru (ratification: 1964)

The Committee notes the Government's report. It also notes the conclusions and recommendations of the Committee on Freedom of Association in Case No. 1906, in March 1999 (see 313th Report, paragraphs 169 to 175).

1. *Bill to replace the Industrial Relations Act.* The Committee recalls that in its previous observation it criticized various provisions of the above Bill and notes that, according to the Government's report, the legislative process of the Bill was not pursued. The Committee requests the Government, if examination of the Bill is recommenced, to take into account the comments that it made in 1998.

2. *Articles 1 and 2 of the Convention.* The Committee had noted: (a) the absence of protection against anti-union discrimination at the time of employment and in the event of prejudicial acts leading to dismissal; and (b) the slowness of the judicial recourse procedures and the absence of effective and dissuasive penalties to guarantee the protection of workers and trade union leaders against acts of anti-union discrimination, or against acts of interference by employers with regard to trade union organizations. The Committee regrets that the Government's report does not contain new information. The Committee requests the Government to take the necessary measures to resolve these shortcomings and to bring its legislation into conformity with the Convention.

3. *Article 4. Requirement of a majority of both the number of workers and of the enterprises to conclude a collective agreement covering the whole of a branch of activity or an occupation* (sections 9 and 46 of the Industrial Relations Act). The Committee regrets that the report does not contain any new information. The Committee considers that these are excessive requirements and that the Act should therefore be amended to eliminate the double requirement mentioned so that the parties are able to determine freely the level at which they wish to negotiate. The Committee requests the Government to provide information in its next report on the measures adopted in this respect and to confirm that the regulation does not impede the parties from negotiating without this double requirement when the collective agreement does not have *erga omnes* effects.

The Committee had also noted that section 42 of the Employment Promotion Act of 1995 allows the employer to "introduce changes or modify working shifts, days and hours, as well as the form and manner in which work is performed". In this respect, the Committee emphasizes that a legal provision which allows the employer unilaterally to modify the content of previously concluded collective agreements, or requires them to be renegotiated, is contrary to the principles of collective bargaining.

4. The Committee notes the observations made by the General Confederation of Workers of Peru, dated 13 September 1999, and requests the Government to transmit its comments in this respect.

[The Government is asked to report in detail in 2000.]

Philippines (ratification: 1953)

With reference to its previous comments concerning the need to encourage and promote collective bargaining in the public sector, the Committee notes the information supplied by the Government in its report according to which the draft Civil Service

Code, which was refiled as Senate Bill No. 15111 on 10 March 1999, is now pending before the Senate's Civil Service and Finance Committees.

Recalling the importance of the development of collective bargaining in the public sector, the Committee firmly hopes that the said legislation will grant to public sector employees not engaged in the administration of the State the right to negotiate their terms and conditions of employment in accordance with *Articles 4 and 6 of the Convention*. It requests the Government to provide a copy of the draft Civil Service Code as soon as it is adopted.

Portugal (ratification: 1964)

The Committee notes the Government's report.

Article 4 of the Convention. The Committee recalls that in its previous observation it had referred to section 35 of Decree No. 209/92 which envisages that any of the parties to collective negotiations or the administrative authority or (in the case of public enterprises) the Economic and Social Council may refer disputes arising from the negotiation of a collective agreement to compulsory arbitration, particularly where agreement is not reached within two months.

In this respect, the Committee notes that the Government states that the above Decree envisages recourse to compulsory arbitration only when all other measures to resolve the conflict have been exhausted. Moreover, this Decree does not prevent arbitration from being interrupted at any moment to enable negotiations to resume. The Government refers to the principle established by the Committee of Experts in the 1994 General Survey on freedom of association and collective bargaining (paragraph 258). As regards arbitration imposed by the authorities at their own initiative, the Committee considers that there comes a time in bargaining where, after protracted and fruitless negotiations, the authorities might be justified to step in when it is obvious that the deadlock in bargaining will not be broken without some initiative on their part. The Government is of the opinion that negotiations can only be deemed to have broken down irretrievably when after two months of bargaining no agreement has been concluded. In this respect, the Committee reiterates that legislation which allows one of the parties to a dispute to impose unilaterally the intervention of the administrative authority for the purpose of compulsory arbitration is inconsistent with the promotion of collective bargaining. In these circumstances, the Committee requests the Government to bring its legislation into full conformity with the Convention by taking the necessary measures to amend the Decree in question so as to ensure that recourse to compulsory arbitration is at the request of both parties only.

Romania (ratification: 1958)

The Committee notes the Government's report and the Act amending Act No. 130/1996 respecting collective labour agreements and its supplement.

1. In its previous comments, the Committee had requested the Government to indicate the measures taken or envisaged and the sanctions envisaged to ensure all workers enjoy adequate protection against acts of anti-union discrimination. The Committee notes the Government's statement relating to measures in Act No. 54/1991, the collective labour agreements and the Labour Code that ensure protection against acts

of anti-union discrimination. The Committee notes that these instruments provide workers with adequate protection as regards freedom to join a trade union of their own choosing and against termination of employment for participating in trade union activities. The Committee requests that the Government indicate whether legislation provides expeditious procedures and effective sanctions to protect workers due to trade union membership or for their participation in trade union activities against acts other than termination of employment, such as transfers, demotion, etc.

2. The Committee notes the provisions under Act No. 54/1991 prohibiting acts of interference. The Committee requests that the Government indicate whether legislation provides expeditious procedures and dissuasive sanctions against acts of interference in the event of such acts.

Rwanda (ratification: 1988)

The Committee notes the Government's report.

1. *Article 1 of the Convention.* The Committee had drawn the Government's attention to the need to take measures to ensure that agricultural workers excluded from coverage by the Labour Code, as well as workers in general and not only trade union delegates, enjoy adequate protection against acts of anti-union discrimination at the time of recruitment and during the course of employment, and that these measures are coupled with sufficiently dissuasive and effective sanctions. Noting that the Government provides assurances, in its report, that the draft Labour Code will address these shortcomings and that the draft Code is receiving its final reading in the interim National Assembly, the Committee requests the Government to keep it informed of any developments in this regard.

2. *Article 4.* The Committee had noted in its previous comments that no collective agreement had been concluded. The Committee notes that the Government proposes to establish permanent consultative structures to promote collective bargaining. The Committee hopes that the Government will shortly be in a position to provide information on the collective agreements which have been concluded in Rwanda. The Committee trusts the Government will keep it informed of any developments on the above points.

Saint Lucia (ratification: 1980)

The Committee notes with deep regret that the Government's report has not been received. As it is the ninth year without a government report, the Committee can only repeat its previous observation on the following matters:

> The Committee recalled the importance of sufficiently effective and dissuasive measures to ensure the application in practice of basic legal standards prohibiting acts of anti-union discrimination. It notes that section 3(2) of the Labour Regulations of 1960 (No. 15) provides that it is the duty of the Labour Commissioner to ensure that workers enjoy adequate protection against acts of anti-union discrimination in respect of their employment. The Committee requests the Government to indicate, in its next report, the manner in which section 3(2) is applied in practice, including any statistics concerning the number of complaints of anti-union discrimination brought to the attention of the labour commissioner and whether any sanctions have been applied in such cases or compensation ordered for the worker who has suffered such acts of discrimination.

[The Government is asked to supply full particulars to the Conference at its 88th Session and to report in detail in 2000.]

Sierra Leone (ratification: 1961)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation on the following matters:

> *Articles 1 and 2 of the Convention. Need to adopt specific provisions accompanied by sufficiently effective and dissuasive sanctions for the protection of workers and workers' organizations against acts of anti-union discrimination and acts of interference.* The Committee had previously noted that the revision of the labour laws, prepared with ILO technical assistance, had already been submitted to tripartite meetings, that the comments of the tripartite body have been received and that the document has just been forwarded to the Law Officers' Department. The Committee asks the Government to keep it informed of any further progress made in the preparation of the final draft document and to provide a copy of the revised legislation as soon as it has been adopted.
>
> *Article 4.* With regard to the right to collective bargaining of teachers, the Committee would request the Government to provide information in its future reports on any collective agreements covering teachers that have been concluded.

Singapore (ratification: 1965)

The Committee notes the Government's report.

1. In its previous comments, the Committee had referred to the prohibition in section 17(2) of the Industrial Relations Act (IRA) of negotiations relative to promotion, transfer, appointment, dismissal and assignment of duties. The Committee had considered that while issues such as promotion, appointment and assignment of duties could eventually be considered as a matter for the employer to decide on as part of his freedom to manage the enterprise, the other issues, namely transfer and dismissal that are currently excluded from negotiation by virtue of section 17(2) of the IRA, should not be excluded from the scope of collective bargaining.

The Committee notes the Government's statement that on the issue of transfer, section 17(2)(b) of the IRA allows management to transfer an employee within a company only where the transfer will not be detrimental to the terms of his employment. However, where the employee and his union consider the transfer to be detrimental, the transfer will still be an issue for collective bargaining. On the issue of termination and dismissal (section 17(2)(d) and 17(2)(e)), the Government states that in situations where the termination of service or dismissal involves possible victimization of union members or union officials, the union can lodge an appeal under section 35(1) of the Act with the view to referring the case to the Industrial Arbitration Court and to seek reinstatement on the basis that the employee concerned was dismissed in circumstances arising out of a contravention of section 82(1) of the Act. This provision seeks to protect employees who could be victimized by their employers due to their involvement as union members or leaders in pursuance of better terms and conditions of employment. If the employer concerned is found to have violated this provision, he may also be liable on conviction to a fine or to imprisonment. Moreover, under the terms of the IRA, any termination of service or dismissal without just cause entitles the employee to seek reinstatement through appeal procedures.

The Committee takes due note of this information.

2. With regard to section 25 of the IRA which governs collective agreements with terms more favourable than those provided in Part IV of the Employment Act, the Government indicates that essentially, section 25 of the IRA subjects employers and trade unions to seek approval from the Minister for Manpower if annual leave and sick leave benefits stipulated in their collective agreement are to be more favourable than that stated in Part IV of the Employment Act. In practice, the Minister in the last two decades has not rejected any application to grant better leave benefits. On annual leave, economic progress over the years has brought about the granting of annual leave far beyond the minimum standards provided under Part IV of the Employment Act. Similarly, on sick leave, the benefit granted by employers due to the favourable employment situation has also been greatly enhanced over the years. The norm is now either in line or higher than the standards stipulated in the Employment Act. Hence, section 25 of the IRA appears to have outlived its usefulness and the Government is considering its removal from the Act. The Committee trusts that the Government will take appropriate steps to repeal section 25 of the IRA in the near future so as to ensure that the right to bargain collectively is fully recognized in newly established enterprises. It requests the Government to inform it of any progress made in this regard in its next report.

Sri Lanka (ratification: 1972)

The Committee notes the Government's report.

1. Further to its previous comments on the need to adopt legislative provisions in order to ensure full conformity with the requirements of *Articles 1 and 2 of the Convention*, the Committee notes the Government's statement that a draft bill on employment and industrial relations ensuring full conformity with *Articles 1 and 2* is under consideration. The Committee trusts that the future legislation will ensure the full protection of workers against acts of anti-union discrimination and of workers' organizations against acts of interference by employers and their organizations accompanied by effective and sufficiently dissuasive sanctions, in accordance with the requirements of the Convention. It requests the Government to supply a copy of this legislation as soon as it is adopted.

2. Further to its previous request for information on any progress made in collective bargaining in the free trade zones, the Committee notes that the Government indicates that collective agreements have been signed between the members of the employees' councils in enterprises and the management but that these agreements have not been registered with the Department of Labour. The Committee requests the Government to provide more detailed and concrete information in this respect.

Sudan (ratification: 1957)

The Committee notes the Government's report.

1. *Articles 1 and 2 of the Convention.* The Committee notes the indication in the Government's report that the tripartite committee established to revise the Trade Union Act of 1992 has drawn up a draft Act which takes account of the Committee's observations which has been submitted to the Attorney General. The Committee expresses the firm hope that the draft will strengthen protection of workers and trade

union organizations, through rapid, effective procedures and sufficiently dissuasive sanctions, against anti-union discrimination and acts of interference, and asks the Government to keep it informed in this respect.

2. The Committee notes that the Committee on Freedom of Association, in Case No. 1843, examined in March 1998, refers to numerous arrests and detentions frequently followed by acts of torture against trade unionists, as well as acts of interference by the Government in trade union activities. The Committee deplores this situation and emphasizes that freedom of association cannot be exercised in the absence of respect for human rights. Considering the gravity of the situation apparent in the Report of the Committee on Freedom of Association, the Committee asks the Government to take urgent steps to ensure exercise of these rights.

3. *Article 4.* The Committee has observed on many occasions that section 16 of the Industrial Relations Act of 1976, and also section 112 of the new Labour Code, allow referral of a collective dispute or a collective labour dispute to compulsory arbitration. Recalling the importance it accords to the principle of voluntary negotiation set forth in *Article 4*, the Committee again requests the Government to take measures to amend the legislation to bring it into conformity with the provisions of the Convention so that arbitration may only be compulsory with the agreement of both parties or in the case of the essential services, and to keep it informed in this respect.

Swaziland (ratification: 1978)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation on the following discrepancies between the 1996 Industrial Relations Act and the provisions of the Convention:

> *Scope of application of the Act.* The need to extend the term "employee" to cover casual workers with regard to the rights enshrined in the Convention.
>
> *Article 2 of the Convention.* The need to adopt a specific provision accompanied by sufficiently effective and dissuasive sanctions for the protection of workers' organizations against acts of interference by employers or their organizations.
>
> *Article 4.* The elimination of restrictions on the level of collective bargaining (sections 40 and 45(4) of the Industrial Relations Act). Furthermore, noting that the Industrial Relations Act provides for exclusive recognition rights of a union representing more than 50 per cent of employees in a unit, and provides for recognition at the discretion of the employer where 50 per cent or less are represented, the Committee stressed the importance of promoting further the rights of unions where no union or group of unions has majority support, to enable them to negotiate an agreement at least on behalf of their own members.
>
> Noting that a draft industrial relations bill has been prepared in consultation with the social partners and with the technical assistance of the Office, the Committee hopes that the Government will make every effort to take the necessary action in the very near future to ensure the full application of this Convention.

Syrian Arab Republic (ratification: 1957)

The Committee notes the Government's report. The Committee had already pointed out that section 98 of the Syrian Labour Code of 1959 permitted the authorities to refuse to approve a collective agreement or cancellation of any clause likely to harm the economic interests of the country. The Government indicates that the repeal of the provision in question is planned and has communicated the text of a draft amendment to certain provisions of the Labour Code that is in the process of being examined by the authorities. Section 1 of this draft contemplates the repeal of section 98 mentioned above. The Committee requests the Government to supply the final text once it is adopted.

United Republic of Tanzania (ratification: 1962)

The Committee takes note of the Government's report and of the adoption of the Trade Unions Act, 1998.

The Committee had made comments for several years on the provisions of sections 22(e)(i), (v), (vii) and (ix), 23(3)(c) and 39(7)(c) of the Permanent Labour Tribunal Act, No. 41 of 1967, as amended in 1990 and 1993, which give the court the power to refuse to register a collective agreement if the agreement is not in conformity with the Government's economic policy. In this respect, the Committee recalls as a general rule that the provisions requiring prior approval of a collective agreement for it to enter into force are only compatible with the Convention provided they merely stipulate that approval may be refused if the collective agreement has a procedural flaw or does not conform to the minimum standards laid down by general labour legislation.

The Committee requests the Government to take measures to amend the legislation in this regard and to keep the Committee informed.

Trinidad and Tobago (ratification: 1963)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation on the following matters:

> 1. With regard to the need to amend provisions that afford a privileged position to registered associations, without providing objective and pre-established criteria for determining the most representative association (sections 24(3) of the Civil Service Act, and 26 of the Prison Service Act), the Committee notes that according to the Government's report, section 26 of the Prison Service Act will be repealed. The Committee recalls that the procedure for recognizing unions as exclusive bargaining agents should provide for specific safeguards (see General Survey of 1994 on freedom of association and collective bargaining, paragraph 240). The Committee requests the Government to indicate in its report the outcome of the work of the tripartite committee appointed to review the Civil Service and Prison Service Acts.
>
> 2. With regard to the necessity to amend section 34 of the Industrial Relations Act, Chapter 88:01, in order to allow a union whose members constitute the largest number of workers in a bargaining unit even if it is unable to reach a membership of 50 per cent of the workers in that bargaining unit, to negotiate collectively employment conditions, and to give to minority unions the right to pursue individual grievances at least on behalf of their members, the Committee notes that the tripartite committee set up to review the Industrial Relations Act has been set up to actively consider the comments of the Committee of Experts. It requests the Government to inform it of developments concerning the work of the abovementioned tripartite committee.
>
> 3. With regard to the need to establish an appropriate mechanism to deal with the grievances of the Central Bank's employees, the Committee understands that section 20 of the Central Bank Act, Chapter 79:02 as amended by Act No. 23 of 1994, establishes a

mechanism for the settlement of disputes between the Central Bank and its employees according to which the Minister of Labour has the power to refer disputes to a special tribunal whose decision is final (see paragraphs (e) and (f) of the said section). The Committee had found it difficult to reconcile such ministerial intervention with the principle of the voluntary nature of negotiation recognized by *Article 4*. The Committee notes that its views have been transmitted to the tripartite committee set up to review the Industrial Relations Act, and requests the Government to keep it informed in this respect.

4. The Committee requests the Government to take the necessary measures to bring its legislation into conformity with the Convention and to keep it informed in its next report in this regard.

Turkey (ratification: 1952)

The Committee notes the Government's report. The Committee also notes the conclusions of the Committee on Freedom of Association in Case No. 1981 (see 313th Report, paragraphs 244-269, approved by the Governing Body at its March 1999 session). Finally, the Committee notes the comments made by the Turkish Confederation of Employer Associations (TISK), the Confederation of Turkish Trade Unions (TÜRK-IŞ) and the Confederation of Progressive Trade Unions of Turkey (DISK).

Articles 1 and 3 of the Convention. Further to its previous comments on the protection against anti-union discrimination under Trade Union Act No. 2821, the Committee takes note of the copies of judicial decisions sent by the Government which show that compensation in case of various acts of anti-union discrimination is granted quite frequently. The Committee further notes the Government's statement that section 31 of Act No. 2821 provides compensation of not less than the total amount of the worker's annual salary; this is not a fixed amount and may be increased by contract or collective agreement or by court decision. The Committee would nevertheless request the Government to keep it informed of any progress made in the adoption of new legislation, mentioned by the Government in it previous report.

Article 4. With regard to a number of limitations on collective bargaining mentioned by TÜRK-IŞ in its observations, the Government furnishes the following detailed comments.

On the issue of the prohibition of collective bargaining for confederations, the Committee notes the Government statement to the effect that the heterogeneous structure of confederations makes it difficult to conclude agreements along vertical lines. However, active involvement of the confederations in the bargaining process and even their leading role in the negotiations on behalf of their affiliated unions particularly in the public sector, is a widely accepted practice.

The requirement of one collective labour agreement at a given level has been imposed by the Constitution which has provided that no more than one agreement may be concluded for an establishment or enterprise at a given time span. The dual system of industry versus establishment level bargaining which existed before 1983 had led to various difficulties and abusive practices involving the conclusion of successive local agreements under the pretext of industry-wide authorization. In addition, industry-wide bargaining does exist in practice and collective labour agreements covering whole branches of activity are concluded in such industries as banking, sea transport, railway transport and national defence, etc.

With regard to ceilings imposed on indemnities, the Committee notes that the minimum levels imposed by Act No. 2821 and the Labour Act may be increased in favour of the worker by agreement. The only ceiling imposed is on the severance pay under the Labour Act. The severance pay that amounts to 30 days' salary for each year of the past service may also be increased in favour of the worker by contract or collective agreement but for one year and may not exceed the annual maximum retirement bonus to be paid to the public servant of the highest rank when retired.

Regarding the issue of the 60-day time limit for bargaining, the Government reiterates that following the 60-day negotiations stage, the parties are free to continue negotiating during the mediation stage as well as during the strike action which is entirely open ended.

On the issue of the dual criteria contained in legislation for determining the representative status of trade unions for collective bargaining purposes, the Committee notes that according to the Government this is a major issue which should be dealt with on a tripartite basis without giving way to the spread of "yellow" unions at the workplace level under the domination of the employer.

The Committee notes that the above-enumerated legislative limitations on collective bargaining do not appear to be observed by organizations of workers which, in practice, are free to pursue free collective bargaining. The Committee therefore requests the Government to indicate, in its next report, the measures taken to remove these restrictions with a view to promoting collective bargaining in accordance with *Article 4* and national practice.

On the issue of the right to organize for public servants, the Government indicates that it was not able to secure the passage of the draft Bill on public servants' trade unions that had already been discussed by the Parliament due to the requests of opposition parties for its revision. The draft Bill was resubmitted by the new Government during the current session of the Parliament. The Committee once again expresses the firm hope that the Bill on public servants' unions will grant collective bargaining rights to public servants with the sole possible exception of those engaged in the administration of the State. The Committee requests the Government to provide information in this regard in its next report.

With regard to the issue of the collective bargaining rights of workers in export processing zones (EPZs), the Committee had previously noted that if negotiations failed, Act No. 3218 of 1985 imposes compulsory arbitration in EPZs for the settlement of collective labour disputes. The Committee notes the Government's statement that the ten-year period laid down by Act No. 3218 of 1985 expired in the Mersin and Antalya zones in 1997 and will come to an end in the Aegean and Atatürk Airport zones in 2000.

The Committee would nevertheless recall that the imposition of such compulsory arbitration runs contrary to the principle of the voluntary nature of negotiations established in *Article 4*. It therefore requests the Government to take the necessary measures to ensure that all workers in all EPZs enjoy the right to negotiate freely their terms and conditions of employment.

Finally, the Committee notes the Government's statement that in order to remove any discrepancy that might exist between the national legislation and the ILO Conventions that have been ratified by Turkey, the Government and the social partners decided in March 1999 to establish a tripartite committee of experts with a mandate to examine the labour legislation and to propose amendments where necessary.

The Committee trusts that this tripartite committee of experts will take account of the Committee's comments when proposing amendments to labour legislation. The Committee requests the Government to send information in this respect. It once again requests the Government to consider availing itself of the assistance of the Office with a view to removing the obstacles which prevent the Convention from being fully applied.

Uganda (ratification: 1963)

The Committee notes the Government's report. The Committee also notes the conclusions of the Committee on Freedom of Association in Case No. 1996 (see 316th Report of the Committee, paragraphs 642-699, approved by the Governing Body at its June 1999 session).

Article 4 of the Convention. Promotion of collective bargaining. The Committee notes that section 8(3) of the Trade Union Decree of 1976 contains the requirement that there be a minimum number of 1,000 members to form a trade union and that section 19(1)(e) of the same law grants exclusive bargaining rights to a union only when it represents 51 per cent of the employees concerned. The Committee considers that such provisions do not promote collective bargaining within the meaning of *Article 4* since this dual requirement may deprive workers, in smaller bargaining units or who are dispersed over wide geographical areas, of being able to exercise collective bargaining rights, and in particular where no trade union represents an absolute majority of the workers concerned.

The Committee considers that where no union covers more than 50 per cent of the workers, collective bargaining rights should be granted to all the unions in the unit, at least on behalf of their own members (see 1994 General Survey on freedom of association and collective bargaining, paragraph 241). The Committee observes in this regard that the Committee on Freedom of Association noted:

> ... the Government's recognition that these provisions are not compatible with the new Ugandan Constitution of 1995 and that steps to address this problem are being undertaken within the framework of the labour law reform process currently taking place in the country ... (see Case No. 1996, op. cit., paragraph 664).

The Committee further notes the Government's statement in its report that the Trade Union Decree No. 20 of 1976 is being revised to enhance the application of the Convention and that the revised legislation is still in the form of a draft Bill. The Committee trusts that this draft Bill will amend sections 8(3) and 19(1)(e) of the Trade Unions Decree with a view to promoting collective bargaining. It requests the Government to keep it informed of any progress made in the adoption of this Bill and to send a copy thereof as soon as it is adopted.

Exclusion of the prison services from the application of the Trade Union Decree. The Committee had noted in its previous comments under Convention No. 154 that the Trade Union Law (Miscellaneous Amendments) Statute of 31 January 1993, which amended Trade Union Decree No. 20 of 1976, enlarged the category of employees eligible for membership in trade unions, particularly in the public service (including the teaching service) and the employees of the Bank of Uganda. The Committee had noted, however, that other categories as well as the prison services were excluded from membership of trade unions by section 3 and Annex 2 of the above Act. The Committee therefore asks the Government to ensure that the guarantees laid down in the Convention are implemented for these categories, which are excluded from the scope of Decree No. 20 of 1976 as amended by the 1993 Act, and to keep it informed of any measure taken in this regard.

Ukraine (ratification: 1956)

The Committee notes the Government's report.

The Committee notes the Government's reply on the pending comments of discrimination against the Independent Trade Union of Miners (NPG) and its members by the management of the Barakov Mine in Krasnodon. The Government, referring to the inspections undertaken by the local labour inspectorate of Lugansk region, to verify compliance with labour legislation, states that no instances of contracts being offered to salaried employees who guarantee that they will not become members of the NPG have come to light. Furthermore, no violations of the Ukrainian Labour Code provisions regarding the lay-off procedure with respect to NPG members have been found and no facts indicating that managers' salaries are dependent on the number of members of the NPG have come to light. The Government adds that the problem of non-payment of wages affects workers in the entire enterprise, not only NPG members. The Government also states that information to the effect that management has taken a decision to shut down the NPG office does not correspond to actual fact: the NPG office is functioning as before in premises provided by the mine management. The Government's report also states that the collective agreement for 1998-99 was signed.

The Committee asks the Government to indicate whether NPG representatives were able to participate in the joint representatives body, as required by section 4 of the Act on Collective Agreements and Accords, in conformity with *Article 2 of the Convention.*

United Kingdom (ratification: 1950)

The Committee notes the Government's report, including the Employment Relations Act, 1999, attached thereto. The Committee observes that the Trades Union Congress (TUC) submitted comments on 15 November 1999 and requests the Government to provide its observations on these comments. The Committee also notes the conclusions of the Committee on Freedom of Association in Case No. 1852 (304th Report, paragraphs 474-498; 309th Report, paragraphs 308-342).

Articles 1(2)(b) and 4 of the Convention. The Committee notes that it has previously raised concerns with respect to insufficient protection for workers against anti-union discrimination, with such lack of protection having harmful implications concerning the promotion of collective bargaining. The Committee had in particular requested the Government to review and amend section 146(1)(a) of the Trade Union and Labour Relations (Consolidation) Act, 1992 (TULRA) and section 13 of the Trade Union Reform and Employment Rights Act, 1993 (TURER) (amending section 148 of TULRA).

The Committee notes with interest that TULRA section 146(1)(a) has been amended by virtue of the Employment Relations Act, 1999, thus now making it unlawful to subject an employee to detriment short of dismissal by omission, and not only in cases of a positive action, due to trade union membership or activities. The Committee notes, however, that the amendments do not address the judicial interpretation whereby the protection of discrimination on the basis of trade union membership under TULRA section 146(1)(a) was found not to include protection for making use of the essential services of the union (e.g. collective bargaining). While the Employment Relations Act states that the Secretary of State *may* make regulations concerning cases where a worker is subjected to detriment by the employer or dismissed on the grounds that the worker refuses to enter into a contract that includes terms which differ from the terms of a collective agreement which apply to that worker (section 17), the Government gives no indication that such regulations have been made or are in the process of being drafted. The Committee, therefore, requests the Government to indicate in its next report any steps taken to review and further amend section 146 of TULRA or to adopt regulations pursuant to section 17 of the Employment Relations Act to ensure conformity with the Convention.

With respect to TURER section 13 the Committee notes that this provision provides for protection against action short of dismissal on grounds related to union membership or activities. However, the Committee notes that the provision allows an employer wilfully to discriminate on anti-union grounds as long as another purpose is to further a change in the relationship with all or any class of employees. The Committee notes the Government's statement that the wording of the section helps make clear the important distinction between rights to trade union membership and the rights to collective bargaining, and thus serves a useful purpose and ought to be retained. The Government adds that the Employment Relations Act deals with the abuse arising where employers coerce workers to opt out of agreements. While noting the information and explanations provided by the Government, in the Committee's view, such a provision could be considered as tantamount to condoning anti-union discrimination, and the provisions of the Employment Relations Act do not redress this situation. The Committee, like the Committee on Freedom of Association, therefore, calls again on the Government to take steps to review and amend TURER section 13.

The Committee is also addressing a request directly to the Government.

Venezuela (ratification: 1968)

The Committee notes the Government's report together with the comments submitted by the World Labour Federation, dated 11 February 1999, in which it raised objections to the Acts, adopted on 26 and 27 August 1998, reforming the powers vested in the judiciary and governing careers in the judiciary. The Committee requests the Government to provide information in this regard.

Articles 1, 2 and 3 of the Convention. The Committee recalls that over a number of years it has been referring to the need to strengthen sanctions against anti-union discrimination so that they are sufficiently effective and dissuasive. The Committee notes with interest the enactment of Decree No. 3235 of 25 January 1999 (regulating the fundamental Labour Act), prohibiting anti-union practices and behaviour (section 243), defining anti-union practice and behaviour (section 244) and enabling workers who have been subjected to anti-union discrimination to have recourse to the Constitution (section 14). The Committee requests the Government to continue to make every effort to give full effect to these provisions of the Convention and to take the necessary measures to ensure that sanctions against anti-union discrimination and interference (sections 637 and 639 of the fundamental Labour Act which limit fines to two months' minimum wages) are not merely symbolic but are sufficiently dissuasive and effective. The Committee requests the Government to provide information, in its next report, on all measures adopted in this respect.

Article 4. The Committee recalls that for a number of years it has been referring to the restrictions on collective bargaining under section 473(2) of the fundamental Labour Act, which stipulates that to negotiate a collective agreement the trade union in question must represent an absolute majority of the workers of an enterprise. The Committee notes that the Government makes no reference to this question in its report. The Committee reminds the Government that this provision does not promote collective bargaining within the meaning of *Article 4.* The Committee requests the Government to take the necessary steps to amend this provision so that in cases where no union organization represents an absolute majority of workers, minority organizations may jointly negotiate a collective agreement applicable to the enterprise or negotiating unit, or at least conclude a collective agreement on behalf of their members. The Committee requests the Government to inform it, in its next report, of any measures adopted in this regard.

Yemen (ratification: 1969)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation on the following matters:

> 1. The need to adopt specific provisions, accompanied by effective and sufficiently dissuasive sanctions, to guarantee the protection of workers against any act of anti-union discrimination by employers and the protection of workers' organizations against acts of interference by employers. The Government had referred to various provisions of the draft Trade Unions Act which would guarantee such protection, in conformity with *Articles 1 and 2 of the Convention.* The Committee firmly hopes that the draft Trade Unions Act will be adopted shortly and requests the Government to send a copy thereof as soon as it is adopted.
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> 2. The need to adopt appropriate measures to encourage and promote the full development and utilization of machinery for the voluntary negotiation of collective agreements. The Committee requests the Government to supply information concerning the extent of collective bargaining in practice, i.e. the number of collective agreements concluded, the sectors covered, the number of workers covered, etc.
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> 3. With regard to the Committee's previous comments on the need to amend sections 68, 69 and 71 of the Labour Code of 1970 which governed the compulsory registration of collective agreements and the possibility of their cancellation in the event that they did not conform with the security and/or economic interests of the country, the Government indicates that Act No. 5 of 1970 was repealed by the new Labour Code, Act No. 5 of 1995, as amended by Act No. 25 of 1997.
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> The Committee notes that section 34(2) of the new Labour Code provides for the compulsory registration of collective agreements, and that section 32(6) of the new Labour Code stipulates that a collective agreement shall be invalid if any of its terms is "likely to cause a breach of security or to damage the economic interests of the country ...". Since this provision makes a collective agreement subject to prior approval before it can enter into force, or allows the agreement to be cancelled on the grounds that it runs counter to the Government's security and/or economic interests, the Committee considers it to be contrary

to *Article 4* of the Convention and requests the Government to take the necessary measures to amend it so that refusal to register a collective agreement is possible only due to a procedural flaw or because it does not conform to the minimum standards laid down by labour legislation. The Committee requests the Government to keep it informed of any developments in this regard.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Angola, Argentina, Australia, Azerbaijan, Bahamas, Belarus, Bolivia, Brazil, Burkina Faso, Burundi, China (Hong Kong Special Administrative Region), Comoros, Estonia, Ethiopia, Greece, Guinea-Bissau, Guyana, Hungary, Jordan, Kyrgyzstan, Latvia, Lesotho, Republic of Moldova, Mozambique, Namibia, Nepal, Netherlands, Nicaragua, Nigeria, Poland, Romania, Sao Tome and Principe, Slovenia, South Africa, Suriname, Tajikistan, United Republic of Tanzania, Ukraine, United Kingdom, Zambia.*

Information supplied by *Colombia, Japan* and *Malawi* in answer to a direct request has been noted by the Committee.

Convention No. 99: Minimum Wage Fixing Machinery (Agriculture), 1951

Requests regarding certain points are being addressed directly to the following States: *Comoros, Czech Republic, Djibouti, Gabon, Grenada, Sierra Leone.*

Convention No. 100: Equal Remuneration, 1951

Afghanistan (ratification: 1969)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation, which read as follows:

> 1. The Committee observes that the application of this Convention is linked inextricably with women's right to equality of opportunity and treatment in employment more generally. In this connection, the Committee refers to its observation under Convention No. 111, which should be read together with this observation.
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> 2. The Committee notes the information provided in the Government's reports, which were received on 26 June and 8 July 1996, respectively, including the information provided by the Government concerning the criteria used to classify civil servants and workers, and that concerning the determination of additional remuneration, such as overtime pay, travelling expenses, pension rights, food, and consumer goods.
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> 3. In its previous comment, the Committee noted the Government's reliance on section 9 of the Labour Code (which stipulates "equal wages for equal work"), whereas the Convention encompasses the broader principle of equal remuneration for work of equal value. Observing that the Government's reports continue to deny any discrimination in the terms and conditions of employment of men and women and refer to section 75 of the Code (containing the criteria for wage determination) without demonstrating how the broader concept is applied, the Committee asked the Government to consider amending the Labour Code so as to reflect fully the principle of the Convention. In its report the Government states that, on the instruction of the competent authorities, the Labour Code is to be amended, and that in any such amendments, the matters raised by the Committee will be

taken into consideration and will be reported to the Office. The Committee hopes that the necessary action will be taken to amend the Labour Code in line with the scope of the Convention and asks the Government to provide information on further developments.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Djibouti (ratification: 1978)

The Committee notes with regret that for the sixth consecutive year the Government's report has not been received. It must therefore reiterate the points made in its previous comments in a new direct request which concerns the revision of legislation and conclusion of collective agreements to include the principle of equal pay for work of equal value, and which seeks to obtain information on the practical application of the Convention. It hopes that the Government will not fail to take the necessary measures and to provide the information requested.

Guinea-Bissau (ratification: 1977)

The Committee notes with regret that the Government's report has not been received. It recalls that for a number of years either the Government has not submitted a report or the report has not replied to previous direct requests. The Committee must therefore reiterate the questions in a new direct request which concerns requests for information on the establishment of national machinery to promote the application of the principle of equal remuneration for work of equal value, the setting of minimum wages and the conclusion of collective agreements. It hopes that the Government will not fail to take the necessary measures and to provide the information requested.

Japan (ratification: 1967)

1. The Committee notes the information contained in the Government's report in response to the communications from the Japanese National Hospital Workers Union ("JNHWU"), concerning "wage-based" contract staff *(chingin-shokuin)*, who are employed on a daily basis for a maximum of one year at a time in national hospitals and sanatoriums, due to the shortage of permanent employees, and who are allegedly treated in a discriminatory manner in contravention of the Convention. It also notes the decision issued in November 1996 by the National Personnel Authority on this matter, a copy of which is attached to the JNHWU communications, as well as to the Government's reply.

2. The communications from the JNHWU state that there are significant disparities between the treatment of wage-based contract staff and permanent staff employed in the national hospitals and sanatoriums, in addition to the insecurity which is inherent in any event in the temporary nature of the contract. In the communications, the JNHWU alleges that marked differences in pay exist between contract staff and permanent staff and that these pay differentials constitute a violation of the Convention, given that women make up 70 per cent of the pool of contract staff. The JNHWU's communications also refer to a unilateral reduction of contract staff wages in 1993, which accentuated the pay disparity, following the adoption of "management restructuring" measures, aimed at correcting irregularities in the administration of the

national hospitals that were found during the course of an investigation into the hospitals and health facilities in the country.

3. The Committee notes the Government's statement that the base salary rates of permanent and contract staff are practically identical for the first five years of employment, during which period most of the contract employees acquire permanent status. The JNHWU's communications further reveal that these contract workers, according to allegations contained in the communications and which are uncontradicted by the Government, appear to work the same number of hours and carry out the same tasks as the permanent staff. Many of them have accumulated many years of service in the same establishment. However, contract staff do not receive certain additional benefits such as paid sick leave or equivalent paid holidays. Nor do they have access to social security programmes which are available to permanent staff. The Government indicates that these differences are justified by the difference in status between permanent and contract staff, a position that is confirmed by the decision of the National Personnel Authority. The Committee notes the Government's indication that the main problem lies in the inadequate utilization of "non-permanent" labour by the national hospitals, a point that is also raised in the November 1996 decision of the National Personnel Authority mentioned above. It also notes that, in its decision, the Authority recommended that the Ministry of Health conduct a study of the work performed by non-permanent staff, in order to re-evaluate its personnel policy and harmonize its employment practices with its personnel needs.

4. The Committee notes that these contract workers are being treated less favourably than permanent staff. It observes that the discrimination alleged in the JNHWU communications is a discriminatory practice based upon the type of contract executed at the time of hire, and that this does not constitute direct sex discrimination within the meaning of the Convention. Nevertheless, the Committee notes that, according to the JNHWU communications, 70 per cent of contract staff are women, thus constituting a category of employees which is predominately female. It appears from the information supplied that most of the contract staff are nurses and assistant nurses. The Government points out that this high percentage of women is also to be found in the pool of permanent staff. Consequently, the Government states that, since women are concentrated equally in both contract and permanent employment, there is therefore no indirect discrimination. The Committee agrees that the allegation of discrimination on the basis of sex as between contract staff and permanent staff in the national hospitals and sanatoriums would appear not to be well-founded.

5. The Committee is concerned, however, that the sector in question, which is predominately female, has such a large percentage of contract staff. It recalls from its previous comments that a significant wage disparity exists generally between men and women in the country, and it is thus compelled to consider the allegations and explanations in the light of these existing salary differentials, and in the general context of equality between men and women in the labour market. The Committee notes that, while the contract staff may not be more female-dominated than the permanent staff, as a whole the sector in question is predominately female. A practice which appears to be gender-neutral because it affects workers of both sexes may constitute indirect discrimination where it disproportionately affects workers of one sex, a situation that may arise with regard to a sector where one sex predominates. The Committee notes that the extensive utilization of temporary labour in a predominately female sector, by

maintaining or increasing the number of temporary female workers, has an indirect impact on wage levels in general, inevitably broadening the existing wage gap between men and women. The Committee notes that this practice has existed in the national hospitals since 1968 and that, in this case, as the Government itself has stated, it was managed inadequately. It therefore urges that measures be taken by the Ministry of Health in respect of the hospitals, to enable them to harmonize their employment practices with their personnel needs in the light of their obligations under the Convention to ensure equal remuneration for work of equal value. It requests the Government to keep it informed of progress made in this regard. In addition, it asks the Government to provide information concerning other employment sectors which utilize contract staff, including the types of jobs and occupations undertaken by contract labour, and to further supply information concerning the proportions of women and men in those jobs and occupations, as compared to the proportions of men and women in permanent positions.

6. The Committee also repeats its request that the Government continue to keep it informed concerning the functioning of the dual career-track system and the measures taken to ensure that all tracks are open to women on the same basis as men, in practice as well as in law. It also requests the Government to supply information on the measures taken to secure the cooperation of the social partners in the promotion of equality of remuneration between men and women for work of equal value.

7. Recalling from its previous observations that some companies operate the career-track system in a manner that discriminates against women by hiring only or mainly men for the "fast track", the Committee reiterates the request made in its previous observation that the Government supply information concerning judicial decisions relating to the new Equality Act guaranteeing equality of opportunity and treatment for men and women workers, which was promulgated in June 1997 and entered into force on 1 April 1999 (together with detailed guidelines). It also requests information on the measures taken to promote the Act's implementation, including the reduction of the high wage differential in the average earnings of men and women.

Madagascar (ratification: 1962)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous comment, which read as follows:

> The Committee notes the observations from the Union of Commercial On-Board Staff of AIR MADAGASCAR sent to the Government by letters of 23 January and 4 March 1996. These observations concern the unequal remuneration arising from the difference in the age of retirement between male and female on-board staff, which is set at 50 years for men and 45 years for women by Regulation 12 of the 1994 Regulations respecting the conditions of work and remuneration of AIR MADAGASCAR commercial on-board staff.
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> […]
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> The Committee hopes that the Government will send its comments on the issues raised in the observations so that it may examine them at its next session.

The Committee is addressing a direct request to the Government concerning other points.

Nepal (ratification: 1976)

The Committee notes the Government's report as well as the attached information.

1. The Committee notes with interest the adoption of Government Order No. 2(A) of 14 April 1997 establishing the new tripartite Minimum Wages Fixation Committee, and the special Government Order No. 21(A) of 18 July 1997 establishing a tripartite Minimum Wages Fixation Committee for the workers and employees in tea plantations. The Government has indicated that the establishment of these mechanisms is in accordance with the recommendations of the ILO advisory mission on wages and equal pay (1993). The Committee also notes Government Order No. 20(B) fixing the minimum wages for the workers and employees working in all enterprises covered by the Labour Act of 1991, and Government Order No. 22(E) fixing the minimum wages for the workers and employees working in tea plantations, which provide that "equal remuneration and allowances shall have to be paid to both the male and female workers for equal work done by them". While welcoming these provisions, the Committee recalls that, in previous observations, and in particular with regard to the principle of equal pay embodied in article 11(5) of the 1990 Constitution and section 11 of the 1993 labour rules (which only guarantee equal remuneration for equal work), it has pointed out repeatedly that the principle of the Convention is intended to cover not only cases where men and women undertake the same or similar work, but the more usual situation where they carry out different work which is nevertheless of equal value. The Committee urges the Government to supply, in its next report, information on the means by which the principle of equal remuneration for work of equal *value* is applied in situations where women and men carry out different work, including in the tea plantation sector.

2. Notwithstanding the abovementioned Government Order fixing minimum wages in tea plantations, the Committee notes that the Government's report fails again to refer to any measures taken to ensure that no exceptions to the equal pay provisions are granted to employers in this sector, and that women's pay in private, as well as public, tea plantations is brought into line with that of men in accordance with national constitutional and legal provisions, and the Convention. It expresses the firm hope that the Government's next report will contain relevant information in this regard. The Committee also wishes to repeat its request for copies of the studies and surveys that, according to the information provided by the Government to the Conference Committee in 1997, had been undertaken to ascertain whether wage discrimination based on sex existed in privately owned tea plantations.

3. With regard to the comments of the General Federation of Nepalese Trade Unions (GEFONT) concerning alleged wage discrimination between men and women in government-run agricultural farms, carpet and garment industries and manufacturing activities, the Committee asks the Government once again to provide information on measures taken to ensure that equal remuneration is paid to women and men in these sectors.

4. Further to the comments made by GEFONT with regard to Metropolis KMC's discriminatory practices on the basis of sex, in relation to wages, incentives and benefits, the Committee notes that the Government's report contains no reply on this matter. It requests the Government once again to provide information on this issue raised by GEFONT and on any measures taken to ensure the application of the principle of equal remuneration in the Convention to all employment-related benefits, including allowances.

Nigeria (ratification: 1974)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation on the following matters:

1. The Committee has observed that, since ratifying the Convention more than 20 years ago, the Government has not furnished information which provides an adequate basis for assessing the application of the Convention. For the most part, the Government's reports have contained the type of broad statement repeated in its latest brief report, indicating that the principle of the Convention is applied and that no contraventions of its practical application have been reported. As concerns the legislative framework, the Government has relied on the narrow formulation of equal pay for equal work, contained in article 17(3)(e) of the Constitution and on the provisions of the National Minimum Wage Act, 1981, which exclude a large section of the workforce from its scope (namely, workers in establishments employing fewer than 50 persons, part-time workers, workers paid on commission or on a piece-rate basis, seasonal workers in agriculture, workers in merchant shipping or civil aviation). While the Government indicated previously that the National Labour Advisory Council was to review the coverage of the Act, no reference has been made to this matter in the Government's present report. Likewise, the Government has not provided sufficient information on the practical application of the Convention.

2. In its latest report, the Government states that sections 10 and 11 of the Wages Boards and Industrial Councils Act, 1990, deal extensively with the Convention. The Committee asks the Government to furnish the legislation and to provide information on its implementation. The Committee has located other recently enacted legislation – the National Salaries and Wages Commission Decree (No. 99 of 1993) – which appears to be of significance to the application of the Convention, as it provides for the establishment of a commission with wide functions, inter alia: to advise the federal Government on national incomes policy; to encourage research on wages structure (including industrial, occupational and regional and any other similar factor, income distribution and household consumption patterns); to establish and run a data bank or other information centre relating to data on wages and prices or any other variable and for that purpose to collaborate with data collection agencies to design and develop an adequate information system; to examine, streamline and recommend salary scales applicable to each post in the public service; and to examine the salary structures in the public and private sectors and recommend a general wages framework with reasonable features which are in consonance with the national economy. The Committee requests the Government to provide information in its next report on the functioning of the Commission, particularly as concerns any progress being made to collect data that would illustrate the extent to which the Convention is being applied in practice. It also hopes that any review of salary structures in the public and private sectors will take account of the requirements of the Convention and asks the Government to indicate any progress made in this regard.

3. Recalling paragraph 253 of its 1986 General Survey on equal remuneration, the Committee observes that it is hard to accept statements suggesting that the application of the Convention has not given rise to difficulties or that full effect is given to it, without further details being provided. It therefore trusts that the Government will reply to the above requests for information with as much detail as possible. The Committee also reminds the Government that the Office may be called upon to provide advice and technical assistance concerning the application of the Convention.

[...]

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

The Committee is raising other points in a request directly addressing the Government.

Saint Lucia (ratification: 1983)

The Committee notes with regret that, for the eighth consecutive time, the Government's report has not been received. It hopes that a report will be supplied for examination by the Committee at its next session and that it will contain full information on the following matters raised in previous direct requests.

1. Referring to its previous comment where the Committee noted that some collective agreements in agriculture include lower wage rates for women, the Committee requests the Government to indicate the measures taken or contemplated to ensure that wage rates (in collective agreements) are not differentiated on the basis of sex.

2. The Committee hopes that the Government will take the opportunity afforded by its review of laws to ensure legislative conformity with the provisions of the Convention. In this regard, the Committee draws the attention of the Government to the comments made in its 1990 general observation, where emphasis was also placed on the importance of embodying the principle of equal pay for work of equal value in national legislation. The Committee requests the Government to provide in its next report details on any progress realized to achieve legislative compliance with the Convention.

3. The Committee also requests the Government to provide the information requested over the years in the Committee's previous requests concerning the objective appraisal of jobs *(Article 3)* and the measures taken in cooperation with employer's and workers' organizations to give effect to the provisions of the Convention *(Article 4)*.

Spain (ratification: 1967)

1. The Committee notes the comments made by the General Union of Workers (UGT) transmitted to the Government in March 1999. The UGT claims that there is still serious and generally hidden salary discrimination on the grounds of sex; and it repeats some of its previous comments, namely that the concept of salary in Spanish law does not correspond to that understood in international law, that the concept of professional classification frequently comprises concepts of value attributed to specified tasks or output bonuses, which results in hidden discrimination against women, and that the measures adopted to combat discrimination are inadequate.

2. The UGT indicates that one of the hidden means of labour and salary discrimination, of which women are the chief victims, is the precarious nature of the employment produced by the *high rate of temporary work*. Short-term contracts provide for a lower salary which, in many cases, is around 50 per cent of the average salary. The Committee notes that, according to bulletin No. 17 of the Economic and Social Council, entitled "Social and employment panorama of women in Spain" of July 1999, only 35 per cent of contracts of indeterminate duration concluded in 1998 were with women.

3. The UGT also claims that the Government had rejected the trade union dialogue proposed repeatedly by the UGT on the subject of discrimination.

4. The Committee would be grateful if the Government would provide information in its next report on the matters raised by the UGT, as well as including the information requested by the Committee in its previous comments.

Sri Lanka (ratification: 1993)

In previous comments, the Committee noted that, while wage rates which discriminated on the basis of sex were removed in the majority of trades in the 1980s, differential wage rates remain for men and women in the tobacco trade, and differential time/piece-rates are still in force for men and women workers in the cinnamon trade. The Committee notes the Government's statement that every effort to convene a meeting with the Wages Boards for these trades has failed and that now action is to be pursued by the Commissioner of Labour to declare a uniform rate. The Committee welcomes this statement of intent and looks forward to receiving information on the progress made with regard to eliminating wage differentials between men and women in the tobacco and cinnamon trades.

The Committee is raising other points in a request addressed directly to the Government.

* * *

In addition, requests regarding certain points are being addressed to the following States: *Albania, Argentina, Austria, Burkina Faso, Cameroon, Cape Verde, Chad, Comoros, Costa Rica, Cyprus, Democratic Republic of the Congo, Djibouti, Dominica, Estonia, Gabon, Ghana, Guinea, Guinea-Bissau, Haiti, Honduras, Hungary, Iceland, Islamic Republic of Iran, Iraq, Ireland, Israel, Kyrgystan, Latvia, Libyan Arab Jamahiriya, Madagascar, Malawi, Mali, Malta, Nepal, Nigeria, Panama, Philippines, Russian Federation, Rwanda, Sao Tome and Principe, Senegal, Sierra Leone, Slovenia, Sri Lanka, Swaziland, Sweden, Tajikistan, Togo, Turkey, Zambia.*

Convention No. 101: Holidays with Pay (Agriculture), 1952

A request regarding certain points is being addressed directly to *Sierra Leone*.

Convention No. 102: Social Security (Minimum Standards), 1952

Bolivia (ratification: 1977)

The Committee notes the Government's report received in June 1998. It notes with regret that the Government has provided no element of reply to the Committee's previous observation.

In this situation, the Committee wishes to express its deep concern that, since the adoption of the Supreme Decree No. 22-578 of 13 August 1990, the Bolivian social security system no longer provides for the payment of family benefit as prescribed by *Article 42, Part VII (Family benefit), of the Convention.* It would like to remind once again that in ratifying Convention No. 102 and freely accepting its obligations in respect of Part VII, the Government placed itself under a legally binding international obligation to guarantee in its national law and practice the provision of the family benefit to the persons protected. In the light of the above, the Committee strongly hopes that the Government will not fail to adopt in the near future the necessary measures to re-establish a family benefit scheme conforming to the provisions of the Convention.

The Committee is further concerned with the fact that the Government does not reply to the communication from the World Federation of Trade Unions, a copy of which was sent to it in August 1997 and which called for a factual analysis of the application of Convention No. 102 by the Government of Bolivia in the light of the new Law on Pensions, No. 1732 of 1996. In this respect the Committee notes the further communication of 14 June 1999, transmitted to the Government the same month, by the Central Obrera Boliviana (COB) alleging violation of the basic principles of social security established by Conventions Nos. 102 and 128. The Committee takes up these questions in detail in its comments under the latter Convention and would like the Government to refer to them. It trusts that the Government's next report will contain detailed information on the applicable branches of Convention No. 102 in the light of the social security legislation currently in force in Bolivia, as well as a detailed reply to the observations made in this respect by the abovementioned trade union organizations.

[The Government is asked to report in detail in 2000.]

Libyan Arab Jamahiriya (ratification: 1975)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> 1. *Part IV (Unemployment benefit) of the Convention.* The Committee notes with regret that the Government's report received in 1997 only reproduces the information provided previously and adds no new element allowing it to assess developments in the situation. In these circumstances, the Committee wishes to recall that the unemployment benefit paid by the employer cannot be considered as sufficient to give effect to *Part IV* of the Convention, which has to be implemented by a system of social security organized and financed in accordance with *Articles 71 and 72* of the Convention. The Committee therefore hopes that the Government will not fail to re-examine the situation and to take all the necessary measures, in both law and in practice, to establish an unemployment protection system in accordance with the Convention.
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> 2. *Part VII (Family benefit).* The Committee notes with regret that the Government's report contains no new information on this subject in reply to its previous observation. It is therefore bound to recall that section 24 of the Social Security Act provides for the provision of family allowances to pensioners only whereas, in accordance with *Article 41* of the Convention, the persons protected shall comprise: (a) prescribed classes of employees, constituting not less than 50 per cent of employees; or (b) prescribed classes of the economically active population, constituting not less than 20 per cent of all residents; or (c) all residents whose means during the contingency do not exceed prescribed limits. The Committee once again hopes that the Government will be able to re-examine the situation so as to include in the Libyan social security scheme measures relating to family benefit in order to ensure that full effect is given to *Part VII* of the Convention.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Mauritania (ratification: 1968)

With reference to its previous comments, the Committee notes that the Government's report submitted in March 1999 is not a detailed report and is nothing more than a copy of its report already submitted in November 1996. The Committee therefore again addresses the text of its previous direct request to the Government, in the

hope that the Government's next report will be a detailed report and contain the information requested.

[The Government is asked to report in detail in 2000.]

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Iceland, Libyan Arab Jamahiriya, Mauritania, Senegal, Slovenia.*

Convention No. 103: Maternity Protection (Revised), 1952

Bolivia (ratification: 1973)

The Committee notes that the information communicated by the Government in its report does not reply to the Committee's previous comments. It also notes that the Government no longer refers to the draft new Social Security Code. In these circumstances, the Committee is obliged to reiterate its previous comments which related to the following:

Article 1 of the Convention. The Committee trusts that measures will be adopted in the near future, both in law and practice, to ensure that women workers at home and women agricultural workers benefit from the protection set out in the Convention. It requests the Government to supply information on any progress achieved in this respect.

Article 3, paragraph 2. In its previous comments, the Committee noted that section 61 of the General Labour Act and the Supreme Decree No. 2291 of 7 December 1950 applicable to women workers in the public administration, provide for maternity leave of 60 days, whereas, according to this provision of the Convention, the minimum period of maternity leave must be 12 weeks. It had also noted that the social security legislation (section 31 of Decree No. 13214 of 24 December 1975 reforming the social security system) provides for payment of maternity benefits for a maximum period of 45 days before and 45 days after the confinement, provided that the insured person fulfils certain conditions. In this respect, the Committee reminds the Government, first, that section 31 of said Decree No. 13214 deals with the period during which the insured person is entitled to maternity benefits and does not, like section 61 of the General Labour Act, deal with the right to maternity leave; and, secondly, that the social security legislation does not cover all the categories of women workers protected by the Convention. The Committee therefore deems that it must stress once again the need to amend section 61 of the General Labour Act and the Supreme Decree No. 2291 which applies to women workers in the public administration, so as to prescribe leave of at least 12 weeks in accordance with the Convention and the national social security legislation and to avoid any contradiction between the various legislative provisions applicable.

Article 3, paragraph 4. The Committee hopes that the Government's next report will contain information on the measures taken or envisaged to include in the General Labour Act, the Social Security Code and the legislation in respect of public servants and public employees a provision allowing for the extension of pre-natal leave where confinement takes place later than the presumed date, without any reduction in the minimum post-natal leave period of six weeks prescribed by the Convention.

Article 4, paragraphs 5 and 8. The Committee once again hopes that the necessary measures will be taken in the near future to enable women workers who cannot claim entitlement to the benefits provided through the social security scheme or who are not yet covered by the scheme, to receive appropriate benefits either out of public funds or through public assistance schemes.

Article 5. In its previous comments the Committee noted that only section 61 of the General Labour Act contains a provision concerning nursing breaks. Public servants and employees, however, do not enter into the field of application of the General Labour Act. The Committee therefore trusts that the Government will adopt the measures necessary to ensure application of this provision of the Convention to this category of women workers.

Brazil (ratification: 1965)

The Committee notes the information communicated by the Government in its previous two reports. With reference to the Committee's previous comments, the Government indicates that the Higher Labour Court, in a decision handed down on 2 September 1996, declared maternity leave a right guaranteed by the Constitution which can neither be negotiated nor compromised (article 7-XVIII of the Constitution and article 10(II)(b) of the transitory constitutional provisions). Article 7-XVIII of the Constitution guarantees, without prejudice to employment or salary, maternity leave of 120 days; and article 10(II)(b) of the transitory constitutional provisions proscribes arbitrary dismissals or unfounded termination of employment from the date pregnancy is confirmed until five months after the date of confinement. The Ministry of Labour and the Higher Labour Court consider that the right to maternity leave is inalienable since its purpose is continuity of employment. The Committee notes this decision with satisfaction and requests the Government to continue to communicate in its reports any further decisions handed down by the courts in respect of article 7-XVIII of the Constitution, which safeguards the employment of a female worker during maternity leave.

Ghana (ratification: 1986)

The Committee notes with regret that the Government's report has not been received for the third consecutive time. It hopes that a report will be supplied for examination by the Committee at its next session and that it will contain full information on the matters raised in its comments, which read as follows:

> 1. *Article 1, paragraph 3(h), of the Convention* (Scope). The Committee notes that the Government reiterates its intention, already expressed in the previous report, to put before the tripartite National Advisory Committee on Labour the question of the possible amendment of the definition of the term "worker" under section 74 of the Labour Decree. It therefore hopes that the Government will take the necessary measures in the near future in order to ensure full conformity of the national legislation with this provision of the Convention, by guaranteeing maternity protection to women engaged in domestic work for wages in private households.
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> 2. *Article 3, paragraph 4* (Duration of maternity leave). The Government states that steps would be taken to apply fully this provision. The Committee therefore hopes that the Government would be able to include in due time in the legislation a specific provision to extend the prenatal leave by any period elapsing between the presumed date of confinement and the actual date of confinement.

3. *Article 3, paragraphs 5 and 6* (Extension of leave in case of illness arising out of pregnancy or confinement). In reply to the Committee's previous comments, the Government indicates that granting of sick leave to government employees is regulated by the General Orders 1951 edition (in particular, by sections 733, 737 and Appendix 25c) and to non-government employees by the relevant collective bargaining agreements. The Committee notes, however, that such provisions appear insufficient to ensure in all cases, in particular as far as women with less than five years' continuous service are concerned, additional leave in the case of illness arising out of pregnancy or confinement. The Committee hopes, therefore, that the Government will take the necessary measures in order to introduce a provision in the legislation giving expressly effect to *Article 3, paragraphs 5 and 6*, of the Convention.

4. *Article 4, paragraphs 1 and 3* (Medical benefits). Further to its previous comments, the Committee notes that the question of medical benefit is still being studied by the Government. Recalling that there is no provision in the national legislation concerning entitlement to medical benefits, the Committee once again expresses the hope that the Government will take the necessary legislative measures in order to ensure that all women workers covered by the Convention be entitled to medical benefits in accordance with this provision of the Convention.

5. *Article 4, paragraph 2* (Rates of cash benefits). Further to its previous comments, the Committee notes with interest that article 26(c) of the collective agreement between the Public Services Workers' Union and the Management of the Volta River Authority, effective from 1 September 1975, provides for the payment to a woman worker during maternity leave of her basic wages or salary in full. The Committee would be glad if the Government would supply extracts of other recently concluded collective agreements in the private sector which contain similar provisions. The Committee also asks the Government to supply a copy of the administrative instructions in the civil service on paid remuneration in respect of maternity leave, which apparently was not attached to the Government's report (see also under point 6 below).

6. *Article 4, paragraphs 4, 5, 6, 7 and 8*. In reply to the Committee's previous comments, the Government indicates that the matters dealt with by these provisions of the Convention are still under discussion. While being aware of the difficulties encountered by the Government in this regard, the Committee hopes that the Government will be able in future to adopt measures giving full effect to these provisions of the Convention, which stipulate in particular that cash and medical benefits shall be provided either by means of compulsory social insurance or by means of public funds, and that in no case shall the employer be individually liable for the cost of such benefits.

The Committee hopes that the Government will indicate in its next report any progress made to fully meet the requirements of the Convention in the light of the abovementioned comments. In this respect, it once again ventures to draw the Government's attention to the possibility of having recourse to the technical cooperation of the International Labour Office.

Libyan Arab Jamahiriya (ratification: 1975)

The Committee notes with regret that the Government's report has not been received for the third consecutive time. It must therefore repeat its previous observation which read as follows:

Article 1 of the Convention (Scope). In its previous comments, the Committee noted that under section 1 of the Labour Code, the scope of the Code and, consequently, the provisions of the Code restricting maternity protection, do not extend to the following workers, who are nevertheless covered by the Convention: domestic workers and persons in similar categories, women engaged in stock raising and agriculture (except those who work in enterprises processing agricultural products or repairing machinery necessary for agriculture), and permanent or temporary public officials working in state administrations and public bodies. The Committee also noted that some of these categories of women workers will be covered by special regulations. The Committee asks the Government to supply copies of such regulations, if any, and to indicate how these workers enjoy the protection provided for by the Convention under *Article 3* (Maternity leave), *Article 5* (Nursing periods) and *Article 6* (Prohibition of dismissal).

Article 2. Under section 5 of the Registration, Contributions and Inspection Regulations of 1982, registration under social security for non-Libyan officials is on a voluntary basis unless there is an agreement concluded with the country of which these workers are nationals. Please indicate the number of non-Libyan female officials and the number of them who are registered under social security, if any.

Article 3, paragraphs 2, 3 and 4 (Length of maternity leave). In answer to the Committee's previous comments, the Government indicates that section 43 of the Labour Code of 1970, which provides for a total of 50 days' prenatal and postnatal maternity leave, is to be considered as having been implicitly repealed following the adoption of section 25 of the 1980 Social Security Act, under which women workers are entitled to maternity benefit for a period of three months. The Committee notes this statement. Since section 25 of the Social Security Act concerns the payment of benefits to women workers in the event of the birth of a child, and not the maternity leave itself which is dealt with in section 43 of the Labour Code, the Committee trusts that the Government will have no difficulties in amending above-mentioned section 43 in order to bring it into conformity with the provisions of the Social Security Act and *Article 3* of the Convention, which provides for a minimum of 12 weeks' maternity leave, of which six weeks at least must be taken after confinement. The Committee recalls in this connection that, in its previous report, the Government stated that the tripartite committee established under the decision of the secretary of the Public Service People's Committee recommended to the General People's Committee that, in particular, section 43 of the Labour Code should be amended to bring it into conformity with *Article 3* of the Convention. It hopes that, in making the above amendment, the Government will also take the following points into consideration:

(a) the Committee recalls that section 43 of the Labour Code makes the granting of maternity leave conditional upon the completion of a qualifying period of six consecutive months of service with an employer, which is contrary to the Convention. In its last report, the Government indicates that under section 25 of the Social Security Act, the implementing regulations fix a qualifying period of four months' contributions for entitlement to maternity cash benefits. It adds that such a qualifying period is necessary to avoid abuse and that it is in conformity with *Article 4, paragraph 4*, of the Convention. While noting this information, the Committee wishes to point out that its comments concerned not the contribution requirements for entitlement to maternity benefit fixed by the Social Security Act, but the six months' qualifying period provided for in section 43 of the Labour Code for the grant of maternity leave. Since the Convention does not allow any such requirement for entitlement to leave, the Committee hopes that it will be removed from the legislation when section 43 of the Labour Code is amended;

(b) the Committee again recalls that section 43 of the Labour Code does not provide, as does *Article 3, paragraph 4*, of the Convention, that where confinement occurs after the presumed date, prenatal leave must in all cases be extended to the actual date of the confinement, and that the period of compulsory leave to be taken after confinement shall not be reduced on that account. The Committee hopes that it will be possible in the near future to amend section 43 of the Labour Code by including a provision to this effect.

Article 4, paragraphs 1, 4 and 8 (Cash benefits). (a) In accordance with the last paragraph of section 25 of the Social Security Act (No. 13) and section 43 of the Labour Code, the maternity benefits provided for women workers, other than self-employed women workers, appear to be the responsibility of the employer. Furthermore, in its report, the Government indicates that the regulations to specify the conditions, rules and guarantees with regard to the provision of maternity benefits, inter alia, which are to be adopted, will include a provision prescribing that the social security fund will pay the benefits to insured women who are entitled to them in cases where the employer is unable to do so, and that the fund reserves the right to claim reimbursement from the employer of the amounts it has paid out, whenever possible. The Committee recalls in this connection that the Convention, in *Article 4, paragraphs 4 and 8*, provides that maternity benefits shall be provided either by means of compulsory social insurance or by means of public funds, and that in no case shall the employer be individually liable for the cost of such benefits due to women employed by him. The Committee therefore hopes that the Government will be able to re-examine the question in the light of the provisions of the Convention and that it will be able to indicate the measures taken or under consideration to ensure that full effect is given to the Convention on this point.

(b) Since section 25 of Social Security Act No. 13 of 1980 does not contain provisions on the subject, the Committee hopes that the regulations issued under the above Social Security Act will expressly provide that in the event of the extension of the length of maternity leave in the circumstances envisaged in *Article 3, paragraph 4*, of the Convention (error in the presumed date of confinement), the period during which the maternity benefit is provided will be extended for an equivalent period.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Sri Lanka (ratification: 1993)

The Committee has noted the detailed information and the copies of legislation communicated by the Government in its latest report. It also notes the comments made by the Lanka Jathika Estate Workers' Union (LJEWU) and the Employers' Federation of Ceylon on the application of the Convention.

1. In its previous comments, the Committee drew the Government's attention to the application of the Convention with regard to female plantation workers and in particular the system of alternative maternity benefits (section 5(3) of the Maternity Benefits Ordinance No. 32 of 1939) – a system which does not make it possible to ensure full application of the Convention to the female workers covered by this system. In this regard, the Government indicates that a collective agreement has been signed with several trade unions and 21 management companies in the plantations covering 585 estates to the effect that, since 1 January 1997, female workers are paid the maternity benefits laid down in the Maternity Benefits Ordinance without reduction. However, a small number of plantations managed by two public corporations are not bound by this collective agreement. The Government adds that the Department of Labour is currently conducting a study on alternative maternity benefits and that, once it is finished, measures should be taken to amend the abovementioned Maternity Benefits Ordinance.

The Committee notes this information with interest. It recalls, however, that cash benefits granted to female workers under the alternative benefits system, which still apply to a certain number of workers, amount to four-sevenths or six-sevenths of their previous wages, which is less than 49 per cent of their previous earnings, whereas under *Article 4, paragraph 6, of the Convention*, where cash benefits are based on previous earnings, they shall be at a rate of not less than two-thirds of these earnings. It also recalls the concerns expressed by the Lanka Jathika Estate Workers' Union (LJEWU) in regard to the low quality of the medical benefits provided by the medical centres in these plantations. In these circumstances, the Committee hopes that the Government will be able very shortly to amend the relevant articles of said Ordinance in order to ensure that all female workers covered by the Convention receive cash benefits and medical care in conformity with the Convention.

2. *Article 3, paragraphs 2 and 3.* In its previous comments, the Committee drew the Government's attention to the reduction of the total duration of maternity leave to six weeks when the female worker gives birth to a third child (or when the child is stillborn). The Government indicates that this reduction responds to considerations connected with the national population policy conducted in 1985 which encouraged small families. The need to grant maternity leave of a total duration of 12 weeks, of which it was compulsory to take six after confinement, is a problem of which the Government takes note, even though at present no measure has been taken since no political decision has been taken to this effect. The Committee hopes that the Government will be able to carry out the necessary legislative amendments in the very near future in order to ensure full application of *Article 3, paragraphs 2 and 3*, of the Convention to all female workers covered by this instrument, *irrespective of the number of their children*. It requests the Government in its next report to indicate any progress made on this matter.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Belarus, Republic of Moldova, Mongolia, Russian Federation, Slovenia, Sri Lanka.*

Convention No. 105: Abolition of Forced Labour, 1957

Afghanistan (ratification: 1963)

The Committee notes with regret that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

> *Article 1(a) of the Convention.* In comments made for a number of years, the Committee has noted that prison sentences involving an obligation to perform labour may be imposed under the following provisions of the Penal Code:
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> (a) sections 184(3), 197(1)(a) and 240 concerning, inter alia, the publication and propagation of news, information, false or self-interested statements, biased or inciting propaganda concerning internal affairs of the country which reduces the prestige and standing of the State, or for the purpose of harming public interest and goods;
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> (b) sections 221(1), (4) and (5) concerning a person who creates, establishes, organizes or administers an organization under the name of a party, society, union or group with the aim of disturbing and nullifying one of the basic and accepted national values in the political, social, economic or cultural spheres of the State, or makes propaganda for its extension or attraction to it, by whatever means it may be, or who joins such an

> organization or establishes relations, himself or through someone else with such an organization or one of its branches.
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> The Committee had noted the Government's earlier indication that the obligation to perform prison labour provided for under section 3 of the Prisons Law covers persons convicted under the above-mentioned sections of the Penal Code as well as those convicted of other misdemeanours and crimes; under section 13 of the Prisons Law, those convicted under the above-mentioned sections of the Penal Code are kept in custody separately from ordinary prisoners, and are also engaged in different activities to keep themselves physically healthy and to provide themselves with gainful employment for which they are fully paid.
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> While noting the special status given to prisoners convicted under the above-mentioned sections of the Penal Code, the Committee pointed out that the imposition of sanctions involving compulsory labour on these persons remains contrary to the Convention.
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> The Committee hopes that the penal provisions will be examined in the light of the Convention with a view to ensuring that no sanctions involving forced or compulsory labour may be imposed as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system and that the Government will indicate the measures taken to this end.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Bahamas (ratification: 1976)

The Committee notes the Government's report.

Article 1(c) and (d) of the Convention. In comments made for many years, the Committee has referred to sections 128, 130 and 134 of the 1976 Merchant Shipping Act, under which various breaches of labour discipline are punishable with imprisonment (involving an obligation to work) and deserting seafarers may be forcibly returned on board ship; and sections 72 and 73 of the Industrial Relations Act (*Official Gazette*, Supplement Part I, 10 September 1970, No 36), under which participation in a strike is punishable with imprisonment, involving an obligation to perform labour. The Committee notes the Government's indication in the report that the abovementioned sections of the Merchant Shipping Act have not been amended. As regards the abovementioned provisions of the Industrial Relations Act, the Government states that no such provisions have been applied for participation in an industrial action, that 1998 and early 1999 were typical examples of high industrial action activity and no repressive measures have been used against any group of participants. While noting this information, the Committee reiterates its hope that the necessary measures will be taken to amend or repeal the abovementioned provisions in order to bring the legislation into conformity with the Convention. It asks the Government to indicate, in its next report, the progress made in this regard and to supply a copy of the latest consolidated text of the Industrial Relations Act.

The Committee is addressing a more detailed request on the matter directly to the Government.

Bangladesh (ratification: 1972)

The Committee notes the Government's reports.

Article 1(a), (c) and (d) of the Convention. In comments made for a number of years, the Committee referred to various provisions of the Penal Code, the Special Powers Act, No. XIV of 1974, the Industrial Relations Ordinance, No. XIII of 1969, as amended, the Control of Employment Ordinance, No. XXXII of 1965, the Post Office Act, No. VI of 1898, the Services (Temporary Powers) Ordinance, No. II of 1963 and the Bangladesh Merchant Shipping Ordinance, No. XXVI of 1983. Under a number of these provisions, compulsory labour may be imposed as a means of political coercion or as a punishment for expressing political views or views opposed to the established political system; as a punishment for various breaches of labour discipline, and as a punishment for the participation in strikes in a wide range of circumstances; furthermore, under the Bangladesh Merchant Shipping Ordinance, seafarers may be forcibly conveyed on board ship to perform their duties.

The Committee had noted the Government's indication in an earlier report that a National Labour Law Commission, 1992 had been established. In its latest report, the Government states that the report of the National Labour Law Commission is still under consideration by the Government. The Government hopes that a comprehensive Labour Code, to be made after due consideration of the National Labour Law Commission's report and recommendations, will be in conformity with the Abolition of Forced Labour Convention "as far as practicable". The Government further states that the provisions of the Bangladesh Merchant Shipping Ordinance will be examined by a tripartite committee in order to be brought into conformity with the Convention. With regard to the Committee's comments on the Penal Code and the Special Powers Act, the Government likewise indicates that it has formed a law commission which is now examining the existing laws and will submit recommendations to the Government regarding the amendment of laws, "if necessary".

In the absence of other information concerning any measures adopted to repeal or amend the various provisions of the national legislation that are in conflict with the Convention, the Committee hopes that concrete action will at last be taken to bring the national legislation fully into conformity with the Convention, and that the Government will supply full information on the various points which are once more set out in a request addressed directly to the Government.

Belgium (ratification: 1961)

Article 1(c) of the Convention. The Committee notes the Government's report.

In its previous comments, the Committee had drawn the Government's attention to the requirement to amend or repeal sections 10, 22, 25(1) and (2), 26(1), 27 and 28 of the Disciplinary and Penal Code for the Merchant Navy and Commercial Fishing Fleet, which provide for penalties involving compulsory labour for seafarers found guilty of certain breaches of labour discipline.

The Committee notes with interest the additional information provided by the Government on the draft text to amend the above Code and the Government's indication that this text is currently before the Council of State.

The Committee trusts that the Code will shortly be brought into conformity with the Convention and requests the Government to transmit a copy of the amendments as soon as they are adopted.

Belize (ratification: 1983)

The Committee notes that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

> *Article 1(c) and (d) of the Convention.* In comments made for a number of years, the Committee has referred to section 35(2) of the Trade Unions Act (Ch. 238), under which a penalty of imprisonment (involving, by virtue of section 66 of the Prison Rules, an obligation to work) may be imposed on any person employed by the Government, municipal authority or any employer in charge of supplying electricity, water, railway, health, sanitary or medical services or communications or any other service that may by proclamation be declared by the Governor to be a public service, if such person wilfully and maliciously breaks a contract of service, knowing or having reasonable cause to believe that the probable consequences will be to cause injury or danger or grave inconvenience to the community. The Committee has also noted that, in pursuance of section 2 of the Settlement of Disputes Essential Services Act (Ch. 235), Statutory Instrument No. 92 of 1981 declared the National Fire Service, Postal Service, Monetary and Financial Services (banks, treasury, monetary authority), Airports (civil aviation and airport security services) and the Port Authority (pilots and security services) to be essential services; Statutory Instrument No. 51 of 1988 declared the Social Security Scheme administered by the Social Security Branch an essential service; and Statutory Instrument No. 32 of 1984 declared Revenue Services, including all Revenue Collecting Departments and Agencies of the Government to be essential services.
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> The Committee noted from the Government's 1994 report that there have been no steps to bring section 35(2) of the Trade Unions Act into conformity with the requirements of the Convention. It recalls that under the Convention, legislation providing for sanctions involving compulsory labour as a punishment for violations of labour discipline or for having participated in strikes must be repealed. It refers also to the explanations in paragraphs 110, 114 to 116 and 123 of its General Survey of 1979 on the abolition of forced labour. Whilst it notes that there are no recorded penalties of imprisonment imposed under section 35(2), the Committee again expresses the hope that the necessary measures will be taken to bring section 35(2), as well as actual practice, into conformity with the Convention and that meanwhile the Government will provide information on its application in practice, including any cases in which penalties of imprisonment have been imposed under it.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Benin (ratification: 1961)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation on the following matters:

> *Article 1(a) of the Convention.* In its previous comments the Committee noted that the provisions of Act No. 60-12 of 30 June 1962 on the freedom of the press provides for sentences of imprisonment involving compulsory labour for certain acts or activities related to the exercise of the right of expression. The Committee referred in this connection to the following provisions: section 8 (deposit of the publication with the authorities before its circulation to the public); section 12 (permitting a ban on publications of foreign origin printed either inside or outside the country in French or in the vernacular); section 20 (incitement to commit an act classified as an offence); section 23 (causing offence to the Prime Minister); section 25 (publishing false reports); and sections 26 and 27 (slander and insults). However, the Government indicated in its report received in September 1997 that a Bill on freedom of information and communication had been drafted but that the Bill has been resubmitted to the National Assembly for reasons of non-conformity with the

Constitution. The Committee therefore reiterates its hope that the Bill on freedom of information and communication will shortly be adopted and that it will guarantee that no term of imprisonment including compulsory labour can be imposed as a sanction for acts or activities related to the exercise of the right of expression.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Cameroon (ratification: 1962)

The Committee notes the Government's report.

Article 1(a) of the Convention. The Committee has been commenting for a number of years on sections 111, 113, 116, 154 and 157 of the Penal Code which provide for sentences involving compulsory labour in cases, inter alia, of expression of opinions directed against the public authorities, and also to sections 4, 12, 19, 33 and 34 of Act No. 90-53 on freedom of association, which provides the same sentences for activities connected to the maintenance of an association which has been dissolved.

In its last report, the Government indicates that the overall question is one of sovereignty, that no State can allow disturbance of national cohesion and that the relationship to the Convention of the sections in question does not appear clear. The Committee takes due note of these indications. It recalls that the Convention protects neither slander nor violence or inciting to violence. However, as the Committee indicated in paragraphs 133-140 of its 1979 General Survey on the abolition of forced labour, the protection provided by the Convention is not limited to activities expressing or demonstrating dissent within the framework of established principles. Consequently, the fact that some activities aim to bring about fundamental changes in the institutions of the State, does not provide grounds for considering them to be outside the scope of the Convention, provided that, in the pursuit of the objective sought, violent methods are neither used nor advocated.

It is to ascertain that the application in practice of the abovementioned penal provisions is limited to activities falling outside the scope of the Convention, that the Committee has repeatedly requested the Government to supply, in particular, copies of any judicial decisions which define or illustrate their scope, as well as information on any measures taken or envisaged to ensure the observance of the Convention in this connection. Since this information is still lacking, the Committee is renewing its request in a more detailed request addressed directly to the Government.

Article 1(c) and (d). In its comments for a number of years, the Committee has noted that under section 226, 229, 242, 259 and 261 of Merchant Shipping Code (Ordinance No. 62/DF/30 of 1962), certain breaches of discipline committed by seamen may be punished by imprisonment involving the obligation to work.

The Government had stated that studies were being conducted with a view to revising the Merchant Shipping Code and harmonizing national legislation and practice with the provisions of the Convention. Since no information on this subject was included in the Government's last report, the Committee again expresses the hope that the Government will report the results of these studies and on progress in the revision of the Merchant Shipping Code and indicate the measures taken or envisaged to ensure that sentences of imprisonment involving forced labour can no longer be incurred by seamen for breaches of discipline that do not endanger the vessel or human life or health.

Canada (ratification: 1959)

The Committee notes the Government's report.

Article 1(c) and (d) of the Convention. In its earlier comments the Committee referred to section 247(1)(b), (c) and (e) of the Canada Shipping Act, under which penalties of imprisonment involving compulsory labour may be imposed for breaches of discipline that do not endanger the safety of the ship or the life or health of persons. The Committee noted from the Government's report of 1997 that consultations with concerned parties were to take place in September 1997 and that the amendments were expected to be adopted in the spring of 1999.

The Government indicates in its latest report that an amendment package (Canada Shipping Act 2000) will be introduced to Parliament during its upcoming session. The Committee trusts that the necessary measures will be taken to ensure that penalties of imprisonment involving compulsory labour will no longer be provided for breaches of labour discipline that do not endanger the safety of the ship or the life or health of persons, and asks the Government to supply a copy of the new Shipping Act, as soon as it is adopted.

Central African Republic (ratification: 1964)

The Committee notes that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

> *Article 1(a) of the Convention.* In its previous comments, the Committee drew the Government's attention to the provisions of Act No. 60/169 (dissemination of prohibited publications) and of Order No. 3-MI of 25 April 1969 (dissemination of periodicals or news that has not been approved by the censorship authority) which provides for terms of imprisonment – including compulsory work – for the expression of political opinions. It noted with interest the entry into force in 1995 of the new Constitution which guarantees freedom of the press (article 13) and asked the Government to indicate whether Act No. 60/169 and Order No. 3-MI had been repealed or amended.
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> The Committee notes that the last report of the Government, which was received in 1997, contained no reply on this point. However, it notes the information according to which persons who express political opinions or their ideological opposition to the established political, social or economic order cannot be compelled to do forced or compulsory labour under the terms of the new Constitution of 14 January 1995.
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> The Committee hopes that the Government in its next report will state whether Act No. 60/169 and Order No. 3-MI have been amended or repealed and that it will communicate, as appropriate, a copy of any new provisions that have been adopted.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Chad (ratification: 1961)

The Committee notes the Government's report.

Article 1(a) and (d) of the Convention. The Committee has been referring for many years to Ordinance No. 30/CSM of 26 November 1975 and to Act No. 15 of 13 December 1959, under which participation in strikes is punishable by imprisonment involving forced labour. The Committee also referred to Act No. 35 of 8 January 1960 respecting subversive texts, under the terms of which persons who have expressed political ideas may be punished in a manner which is not compatible with the Convention.

In its last report, the Government indicates that no specific text to repeal the above provisions has been adopted, but that the provisions in question are not applied anywhere on the national territory. The Government however reaffirms its determination to conduct inter-ministerial negotiations so that these texts are repealed in the future.

The Committee takes due note of these indications and the above commitment. It hopes that the Government will soon provide information on the measures which have been taken or are envisaged to bring its legislation into conformity with the practice indicated and with the Convention.

Cyprus (ratification: 1960)

The Committee notes that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

> *Article 1(c) and (d) of the Convention.* 1. In the comments that it has been making for many years, the Committee has noted that section 3(1) of the Supplies and Services (Transitional Powers) (Continuation) Act (Chapter 175A) authorizes the issuance of Orders to make effective Defence Regulations 79A and 79B for the purpose of so maintaining, controlling and regulating supplies and services as: (i) to secure their equitable distribution or their availability at fair prices; (ii) to promote the productivity of industry, commerce and agriculture; (iii) to foster and direct exports and reduce imports and to redress the balance of trade; and (iv) to ensure that the whole resources of the community are available for use, and are used, in a manner best calculated to serve the interests of the community. Regulation 79A authorizes the direction of any person to perform services and the requirement that persons employed in undertakings engaged in work regarded as essential for any prescribed purpose not terminate their employment or absent themselves from work or be persistently late for work, on pain of imprisonment (involving, under the Prison Regulations, the obligation to perform labour). Regulation 79B authorizes the Government to issue further regulations to prohibit strikes, on pain of imprisonment by virtue of Regulation 94.
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> 2. In its report received in January 1998, the Government confirms its previous repeated statements that during the period under review no recourse was had to Defence Regulations 79A and 79B, which can only be applied to the extent that they are not in conflict with the Constitution of the Republic of Cyprus and namely articles 10 and 27 concerning forced labour and the right to strike respectively. Nevertheless, the Committee noted in its earlier comments that the Government had proceeded with the drafting of new legislation regulating the right to strike in essential services, which, according to the Government's latest report received in January 1998, is still being examined by the Committee of Ministers, which had several meetings during the reporting period. The Government assures the Committee once again that every effort will be made to bring the legislation into conformity with the Convention.
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> 3. With reference to its observation addressed to the Government under Convention No. 87, the Committee expresses the hope that the list of prescribed essential services will be limited to essential services in the strict sense of the term, and that participation in strikes will not be punishable with penalties involving compulsory labour, unless such strikes are likely to endanger the life, personal safety or health of the whole or part of the population. The Committee asks the Government to provide, in its next report, information on any progress made in this regard and to supply a copy of the new provisions as soon as they are adopted.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Dominican Republic (ratification: 1958)

The Committee notes the Government's reports.

Issues arising from the situation of Haitian workers in the Dominican Republic, related to the application of the Conventions on forced labour. In its previous observation, the Committee had asked the Government to provide information on the work of the joint bilateral committee as regards the conditions of hiring of Haitian workers for the cane harvest. It had also asked the Government to report on the progress made concerning the regularization of the status of Haitian workers living and working in the Dominican Republic.

Following its previous comments, the Committee notes the information concerning the harvest which took place in November 1998 to June 1999. The Government refers to the contracts, drawn up in Spanish and Creole, made with Haitian nationals established in the country and those who legally entered the country for the harvest. A total of 12,041 workers were hired. Six labour inspectors were directly assigned to the inspection in the six concerned plantations, and to the supervision of working hours and payment of salaries.

Despite the establishment of the joint bilateral committee made up of representatives of both States to examine the various aspects of Dominican-Haitian relations, the Government indicates that as yet it has not been possible to reach an agreement to regulate the conditions of contract of Haitian workers. High-level official visits to Haiti have only allowed for an initial exchange of basic ideas with respect to labour migration between the two countries.

According to information from the General Directorate of Migration, approximately 400,000 Haitians are living in the Dominican Republic. Only 1,862 of these hold regular residence documents. Since Haitian immigrants fear repatriation, and a number of them lack any identification document, they resisted any comprehensive census, which in turn prevents their regularization.

A pilot programme has been initiated in Valverde Province, by the General Directorate of Migration, with a view to determine with the employers their needs for supplementary workers. As a result, work permits and provisional residence permits for six months have been issued to more than 3,000 Haitians. At the end of that period, these workers will return to their country and will not be allowed to re-enter the Dominican Republic for two months. The programme should be extended to other parts of the country.

The Government further indicates that all sugar mills have been privatized, that the number of workers employed for the sugar harvests has greatly dropped and that many migrant workers of Haitian nationality are now employed in the construction sector and in agriculture. The General Directorate of Migration is actively involved in finding satisfactory solutions and is leading a pilot programme to issue work permits and provisional residence permits to a limited number of Haitian workers, for a limited time, taking into account the employers' needs for supplementary workers. Eventually the programme should be extended to other parts of the country.

The Committee takes due note of this information. With regard to the privatization of all sugar mills, the Committee notes that the Government remains responsible for ensuring the observance, throughout the national territory, of this Convention as well as the Forced Labour Convention, 1930 (No. 29), also ratified by the Dominican Republic. The Committee regrets that little progress has been achieved by the joint bilateral committee and asks the Government to continue to provide information on the work of the committee as regards the conditions of hiring of Haitian workers for the cane harvest.

The Committee also notes that despite efforts with regard to the regularization of the status of Haitians working and living in the Dominican Republic, measures still are at an early stage. For many years, the Committee has been pointing out that the application of the Convention is affected by the uncertainty of the legal status of many workers since such uncertainty makes the workers more vulnerable and may lead to abuse and practices which impair the rights protected by the Convention.

The Committee hopes that the Government will give effect to the recommendations which it has been making for some time regarding the regularization of the status of Haitian workers living and working in the Dominican Republic and that it will report on any progress made.

Ecuador (ratification: 1962)

In its previous comments, the Committee referred to Decree No. 105 of 7 June 1967, under which penalties of imprisonment of from two to five years can be imposed on anyone who foments or takes a leading part in a collective work stoppage. The penalty laid down in the Decree for anyone who participates in such a stoppage, without fomenting or taking a leading part in it, is correctional imprisonment of from three months to one year. For the purposes of this provision, there is a work stoppage when there is collective stoppage of work or the imposition of a lockout except in the cases allowed by the law, the paralysing of means of communication and similar anti-social acts. Prison sentences involve compulsory labour under sections 55 and 66 of the Penal Code. The Committee also referred to section 65 of the Maritime Police Code, under which crew members of an Ecuadorian vessel may not apply to disembark in a port other than the port of embarkation, except by mutual agreement with the master. It also provides that if a crew member deserts he shall lose his outstanding wages and his belongings to the vessel and, if captured, he shall pay the cost of his arrest and be punished in accordance with the naval regulations in force.

The Committee expressed the hope that measures would be taken regarding these provisions in order to assure the observance of *Article 1(c) and (d) of the Convention.*

The Committee notes the Government's statement in its report that the legal reforms suggested by the Committee are proceeding through the National Congress but that the crisis being experienced by the country at present has meant that the legislature must give priority to its work on reforms that are essential for the life of the country and the survival of its people. The Committee hopes that the Government will take the necessary measures as soon as possible to bring the legislation into conformity with the Convention and that it will provide detailed information on progress in this work.

Ghana (ratification: 1958)

The Committee notes the Government's report.

Article 1(a), (c) and (d) of the Convention

1. In comments made for a considerable number of years, the Committee has referred to provisions of the Criminal Code, the Newspaper Licensing Decree, 1973, the Merchant Shipping Act, 1963, the Protection of Property (Trade Disputes) Ordinance and the Industrial Relations Act, 1965, under which imprisonment (involving an obligation to perform labour) may be imposed as a punishment for non-observance of restrictions imposed by discretionary decision of the executive on the publication of newspapers and the carrying on of associations, for various breaches of discipline in the merchant marine and for participation in certain forms of strikes. Having requested the Government to adopt the necessary measures in regard to these provisions to ensure that no form of forced or compulsory labour (including compulsory prison labour) might be exacted in circumstances falling within *Article 1(a), (c) or (d) of the Convention*, the Committee noted the Government's statement that the National Advisory Committee on Labour was discussing the comments of the Committee of Experts and that it was the wish of the Government to bring the legislation concerned into conformity with the Convention. The Government also indicated in its previous report that the National Advisory Committee on Labour concluded discussions on the Committee of Experts' comments and submitted recommendations to the Minister in March 1994 designed to bring domestic legislation into conformity with ILO standards, and the comments of the Committee of Experts had been submitted to the Attorney-General for a closer study and expert comments.

In its latest report, the Government indicates that the action of the Attorney-General to bring the legislation into conformity with the Convention in accordance with the recommendations of the National Advisory Committee on Labour had been halted in view of the proposed review and codification of the labour laws. It states that the tripartite National Forum that includes representatives of the Attorney-General's Office, the National Advisory Committee on Labour and the employers' and workers' organizations, would consider the comments made by the Committee of Experts regarding the application of the Convention. The Committee therefore trusts that the necessary action will at last be taken on the various points which are once again recalled in detail in a request addressed directly to the Government.

2. The Committee previously noted the adoption of the Political Parties Law, 1992, the Emergency Powers Act, 1994, and the Public Order Act, 1994, which gave rise to a number of questions under the Convention that are also reiterated in the request addressed directly to the Government.

Greece (ratification: 1962)

The Committee notes the Government's report.

Article 1(c) of the Convention. In its previous comments, the Committee noted that the Minor Offences Code of 1967, the Maritime Code of 1973 (sections 205, 207(1) and 222), Act No. 3276 of 26 June 1944 respecting collective agreements and Act No. 299 of 25 October 1936 on the settlement of collective disputes in the merchant marine (section 15) establish sanctions involving compulsory labour for seafarers violating labour discipline. It noted the Government's explanations that these provisions do not infringe the provisions of the Convention since seafarers are under legal obligations which protect the rights and freedoms of other workers, safeguard public order, national security, public health and, above all, the safety of human life at sea. The Committee had, however, drawn attention to the fact that the actions punishable under these provisions have no bearing on the criteria of the safety of the ship or of the persons on board. It recalled that only acts which endanger the ship or the life or health of persons on board are excluded from the scope of the Convention and requested the Government to take the necessary measures to bring its legislation into conformity with the Convention.

The Committee notes with interest the Government's indications in its latest report to the effect that the Minister of the Merchant Navy is proposing to develop regulations under which the sanctions envisaged by sections 205, 207(1), 208, 210(1) and 222 of the 1973 Maritime Code, section 4(1) of Act No. 3276 of 26 June 1944 respecting collective agreements and section 15 of Act No. 229 of 25 October 1936 respecting the settlement of collective disputes will only cover actions:

(a) endangering the safety of the vessel, the persons on board, the cargo of a vessel, an individual or property at sea;

(b) polluting the maritime environment and prejudicing it in a general manner; or

(c) undermining public order, national security, public health or public morals.

The Committee trusts that these texts will be drawn up in compliance with *Article 1(c)* of the Convention, in the sense that it will not be possible to impose penalties involving compulsory labour as a means of labour discipline. In this respect, the Committee hopes that endangering cargo or other assets will only be punishable by such sanctions in cases of wilful acts, and not where they are caused by negligence, and that the definition which will be made of the terms "public order" and "public morals" will not be such as to permit the imposition of penalties for acts relating to labour discipline. The Committee requests the Government to provide copies of the new texts as soon as they are adopted.

Article 1(d). In its previous direct request, the Committee requested the Government to provide information on the effect given in practice to section 213(1) and (2) of the Code of Public Maritime Law, under which collective insubordination by seafarers to a ship's master can be punished by deprivation of liberty involving compulsory labour.

In its latest report, the Government once again indicates that the master of a vessel assumes heavy responsibilities relating to the proper functioning of the vessel and the protection of the maritime environment and that it is therefore absolutely necessary that the proper discharge of the master's functions is assured. The Government states that the penal sanctions envisaged in section 213 are only imposed by the competent judicial authorities (and not by the master) and also submits that the provision in question provides for the imposition of penal sanctions against seafarers not due to any breach of discipline, but as a result of insubordination to the master.

The Committee notes these indications. It recalls, as it has indicated in paragraphs 117 to 119 of its 1979 General Survey on the abolition of forced labour, that the prohibition established by the Convention from imposing sanctions involving compulsory labour in the event of the violation of labour discipline includes the punishment of acts of disobedience in relation to the master of the vessel, except for cases of acts tending to endanger the ship or the life or health of persons.

The Committee once again hopes that the necessary measures will be taken to ensure compliance with the Convention on this point and that the Government will report the changes to the legislation which are adopted or envisaged for this purpose.

Article 1(a). The Committee refers to its previous comments calling for the repeal of Legislative Decree No. 794 of 1970, certain provisions of which permit the imposition of restrictions on freedom of assembly and expression, in private as well as in public, and give the police discretionary powers allowing them to forbid or disperse meetings under penalty of sanctions involving compulsory labour.

The Committee noted the indications which the Government has been reiterating since 1992 that a draft Bill on public meetings had been prepared. In its latest report, the Government no longer refers to the above Bill and indicates that the laws prohibiting meetings in public and private places have been repealed by section 41(2) of Act No. 330/76 and section 32(6) of Act No. 1264/82. These provisions, which have identical wording, provide that "provisions of laws, decrees and ministerial orders which are contrary to the provisions of the present Act or refer to the matters regulated therein shall be abolished". The Committee notes that Acts Nos. 330/76 and 1264/82 relate to matters concerning freedom of association and do not cover the more general issues of public meetings.

The Committee recalls that the scope of *Article 1(a)* of the Convention is not confined to the freedoms of professional associations. Under the terms of *Article 1(a)* of the Convention, penalties involving compulsory labour must not be imposed upon persons who hold or express certain political opinions or demonstrate their ideological opposition to the established political, social or economic order. As the Committee noted in paragraphs 133 to 140 of its 1979 General Survey on the abolition of forced labour, since opinions and views ideologically opposed to the established system are often expressed at various kinds of meetings, where such meetings are subject to prior authorization granted at the discretion of the authorities and violations can be punished by sanctions involving compulsory labour, they come within the scope of the Convention.

The Committee once again hopes that the necessary measures will soon be taken to amend or repeal Act No. 794-70 and that the Government will provide a copy of the relevant text.

Guatemala (ratification: 1959)

The Committee notes the Government's reports and the attached texts.

1. With reference to its previous comments, the Committee notes with interest the text of Decree No. 143-96 repealing Legislative Decree No. 19-86 respecting voluntary civil defence committees (this Decree provided for compulsory enrolment and imposed penalties in the event of refusal to serve; the committee which examined the representation under article 24 of the Constitution against Guatemala had recommended its repeal). The Committee also notes that the civil defence committees have been disarmed and demobilized under international control, in the context of the peace

agreements signed by the Government and the Revolutionary National Union of Guatemala (URNG).

2. In its previous comments, the Committee noted that Legislative Decree No. 9 of 1963, which established sanctions for various activities relating to communist or similar parties, had been repealed by Decree No. 130-96. The Committee notes that a copy of the latter text, which came into force on 23 December 1996, was supplied by the Government.

3. The Committee draws the Government's attention to the comments that it has been making for many years on certain provisions of the Penal Code which are not compatible with the Convention, and particularly with *Article 1(a), (c) and (d).* The Committee had noted that, under section 47 of the Penal Code, sentences of imprisonment involving compulsory labour can be imposed as a punishment for the expression of certain political opinions, as a means of labour discipline or for participation in a strike, under the terms of the following provisions:

- section 396 of the Penal Code: "Any person who seeks to organize or operate associations which act in collaboration with, or in obedience to, international bodies propounding the communist ideology or any other totalitarian system, or that are intended to commit offences, or who participates in such associations, shall be punished by imprisonment of from two to six years";
- section 419: "Any public servant or employee who fails or refuses to carry out, or delays carrying out, any act corresponding to his function or responsibility, shall be punished with imprisonment of from one to three years";
- section 390(2): "Persons who commit acts intended to paralyse or perturb enterprises which contribute to the economic development of the country, without these acts necessarily involving recourse to violence, shall be punished with imprisonment of from one to five years";
- section 430: "Public servants, public employees and other employees or members of the staff of a public service enterprise who collectively abandon their jobs, work or service, shall be punished with imprisonment of from six months to two years. If such a stoppage prejudices the public interest or, in the case of leaders, promoters or organizers of the collective stoppage, those responsible shall be liable to double the penalty."

The Committee hopes that the necessary measures will be taken to bring the legislation into conformity with the Convention on these points and that the Government will provide information on the measures taken for this purpose.

Guinea (ratification: 1961)

The Committee notes that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

> The Committee has for many years been drawing the Government's attention to legislation which raises difficulties, as it seems to imply the use of forced or compulsory labour in circumstances referred to in *Article 1 of the Convention.* In particular, it has referred to Act No. 45/AN/69 of 1969 respecting the disclosure of professional secrets and the unlawful communication of state and party documents (in connection with *Article 1(a),* regarding political coercion or the expression of certain views); and Decree No. 416/PRG of

1964, concerning compulsory service to overcome technical and economic underdevelopment in the Republic, and Ordinance No. 52 of 1959, also concerning compulsory military service (in connection with *Article 1(b)*, regarding the use of labour for purposes of economic development). More generally, the Committee asked the Government to provide copies of legislation relating to criminal procedure (Act No. 64/AN/69) and other matters relevant to the Convention.

The Committee has noted the Government's indications that early legislation has fallen into disuse during the Second Republic, and is to be reviewed. It would be grateful if the Government would include in its next report full information on any resort to the legislation mentioned above and on any progress made in the revision process (including revision of the Penal Code), together with information on practical application of the Convention requested in *Part V of the report form* approved by the Governing Body.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Honduras (ratification: 1957)

The Committee notes the Government's report, which includes observations made by the United Confederation of Honduran Workers (CUTH).

The Committee notes that the above observations refer in a general manner to the alleged use of "methods of forced labour as measures of discipline, punishments for persons participating in strikes, discrimination on grounds of race, sex and religion ...". The CUTH neither indicates laws or regulations providing for such use of forced labour, nor specific instances in which forced labour is alleged to have been imposed in practice. In its comments on these allegations in its report, the Government refers to various provisions of the national legislation which have a bearing on the observance of the Convention. In the absence of more detailed and concrete allegations by the CUTH, the Committee notes the Government's reply in its report.

Iraq (ratification: 1959)

1. *Article 1(a), (c) and (d) of the Convention.* In its earlier comments, the Committee referred to a number of provisions of the Penal Code, the Press Act and the Societies Act, under which penalties of imprisonment involving, according to section 87 of the Penal Code, compulsory prison labour, may be imposed as a means of political coercion or as a punishment for expressing political views or views which are ideologically opposed to the established political order, or for stopping or hampering activities in a wide range of government offices, public utilities, organizations, associations and industrial installations, without distinction between essential and non-essential services.

The Committee also noted the Government's repeated statements that neither section 87 of the Penal Code nor Law No. 104 of 1981 on the State Organization for Social Reform governing prison work provided for forced labour on the part of prisoners. Work performed by prisoners was not compulsory; it was executed in conformity with section 18 of Law No. 104 which provided that each inmate had the right to work in conformity with his capacities and qualifications, in order to get vocational training; work was governed by the provisions of the Labour Code and, in practice, it was not even possible to satisfy all the demands for work.

In its latest report, the Government repeats these indications, adding that under section 20(2) of Law No. 104 of 1981, as amended by Law No. 8 of 1986, work by prisoners outside the penal institutions is voluntary.

The Committee takes due note of these indications. It recalls that under both sections 87 and 88 of the Penal Code, concerning imprisonment and hard detention (to be imposed on persons sentenced to more than one year's imprisonment), persons convicted are to be assigned to work, as specified by law, in a penal institution. Under section 19 of Law No. 104 of 1981 on the State Organization for Social Reform, work, while not being a punishment in itself, "shall constitute an integral part of the enforcement of the punishment", and "the technical committees shall regard the work as a mandatory necessity for maintaining intact the integrity of the inmates, the wards and the community". While the Government indicated in an earlier report that the necessary measures were being taken to modify section 19 of Law No. 104 of 1981 with a view to providing that work of persons sentenced to imprisonment was optional and depended on their will and free choice, no such measures appear to have been taken so far. The Committee once more expresses the hope that the necessary measures will be taken to ensure the observance of the Convention with regard to the abovementioned provisions of the legislation, be it by removing the restrictions on the freedom of expression, the right to strike and the other rights and freedoms touched upon in *Article 1(a), (c) and (d)* of the Convention, or by removing the penalties of imprisonment (involving an obligation to work) through which these restrictions are enforced, or by amending sections 87 and 88 of the Penal Code and Law No. 104 of 1981 so as to make prison labour optional for those concerned.

Pending the adoption of the appropriate legislative amendments, the relevant provisions of the Penal Code, the Press Act and the Societies Act are again set out in a request addressed directly to the Government.

2. *Article 1(c).* In previous comments, the Committee referred to section 364 of the Penal Code, which provides for imprisonment in cases where officials or persons with public functions leave their work even after resignation or do not carry out their work when this might endanger the life, health or safety of the population or cause riots or unrest or paralyse a public service. It noted that under resolution No. 150 of 1987 of the Revolutionary Command Council (RCC) all workers in state service and the socialist sector are public officials, and that under RCC resolution No. 521 of 7 May 1983 the resignation of Iraqi officials in the state services or the socialist sector or mixed sector may not be accepted in the first ten years of service and is subject to the reimbursement of all training costs before or after the appointment. Officials resigning without the agreement of their department also lose their rights arising from previous service, under resolution No. 700 of 13 May 1980. Only women may have their resignation accepted unconditionally under resolution No. 703 of 5 September 1987. Also, under resolution No. 200 of 12 February 1984 any official or worker in state services or the socialist sector who after written notice does not resume work or exceeds leave by more than three days without a reasonable excuse is subject to imprisonment of from six months to ten years, and under resolution No. 552 of 28 June 1986 the same applies to all officials or graduates centrally placed who do not accept their posting.

The Committee refers to the explanations provided in paragraph 110 of its 1979 General Survey on the abolition of forced labour, where it indicated that forced or compulsory labour as a means of labour discipline may consist, inter alia, of measures to ensure the due performance by a worker of his service under compulsion of law. While the Convention does not protect persons responsible for breaches of labour discipline that impair the operation of essential services or in circumstances where life and health are in danger, in such cases there must exist an effective danger, not mere inconvenience. Furthermore, the workers concerned must remain free to terminate their employment on reasonable notice. The Committee further recalls that the effect of statutory provisions preventing termination of employment of indefinite duration by means of notice of reasonable length is to change a contractual relationship based on the will of the parties into service by compulsion of law, and is thus incompatible with both the present Convention and the Forced Labour Convention, 1930 (No. 29), likewise ratified by Iraq.

The Committee once more refers to the report of the Governing Body committee set up to consider the representation made by the Federation of Egyptian Trade Unions under article 24 of the ILO Constitution alleging non-observance by Iraq of several ILO Conventions (document GB.250/15/25, Geneva, May-June 1991). The Committee notes that the Governing Body committee concluded in its recommendations, inter alia, that:

(i) the Government should take the necessary measures to repeal, in so far as they are still in force, the provisions of the Penal Code and the Revolutionary Command Council resolutions which prevent workers from terminating their employment by giving notice of reasonable length and which provide for penalties involving compulsory labour as a means of labour discipline;

(ii) pending the repeal of these provisions, the Government should take the necessary measures to enable all workers wishing to terminate their employment relationship to leave their jobs by giving notice of reasonable length and without being liable to sanctions or deprivation of rights accrued from previous service;

(iii) the Government should communicate, in its reports to be transmitted under article 22 of the Constitution on the application of the present Convention, information on the measures taken or envisaged to give effect to these recommendations in order to enable the supervisory bodies of the ILO to continue the examination of the questions dealt with in this report.

The Committee recalls that, in its 1993 report, the Government indicated that measures had been taken to amend, inter alia, section 364 of the Penal Code. In the absence of further information on the matter, the Committee again requests the Government to supply detailed information on any measures taken so far to give effect to the recommendations of the Governing Body committee, including copies of any amending legislation adopted.

Ireland (ratification: 1958)

Article 1(c) and (d) of the Convention. The Committee notes with satisfaction that the Merchant Shipping (Miscellaneous Provisions) Act, 1998 (No. 20) has repealed section 225 of the Merchant Shipping Act, 1894, and amended section 221 of the same Act, which provided that certain disciplinary offences by seafarers were punishable with imprisonment (involving, under section 42 of the rules for the Government of Prisons, 1947, an obligation to work), and also repealed sections 222, 224 and 238 of the

Merchant Shipping Act, under which seafarers absent without leave could be forcibly conveyed on board ship.

The Committee notes the Government's indication in its report that the Rules for the Government of Prisons, 1947, have not yet been replaced by the proposed new rules, which are likely to be introduced in the first quarter of the year 2000. It would be grateful if the Government would supply a copy of the new Rules, as soon as they are adopted.

Jamaica (ratification: 1962)

The Committee notes the Government's reply to its earlier comments.

Article 1(c) and (d) of the Convention. For a number of years, the Committee has commented on sections 221, 224 and 225(1)(b), (c) and (e) of the 1894 Merchant Shipping Act which provided for the punishment of various disciplinary offences with imprisonment (involving an obligation to perform labour under the Prisons Law) and for the forcible conveyance of seafarers on board ship to perform their duties.

The Government indicates in its report that the new Jamaica Shipping Act, 1998, came into operation on 2 January 1999, and that the provisions related to the forcible conveyance of seafarers on board ship and the punishment of disciplinary offences committed under the Act are not included in the new Act.

The Committee notes, however, that the punishment of disciplinary offences with imprisonment (involving an obligation to perform labour) is still provided for in sections 178(1)(b), (c) and (e) and 179(a) and (b) of the new Act. While the new Act contains no provisions concerning the forcible conveyance of seafarers on board ship, the offences of desertion and absence without leave are still punishable with imprisonment (involving an obligation to work) (section 179). Similarly, penalties of imprisonment are provided for in section 178 (1)(b), (c) and (e) inter alia for wilful disobedience or neglect of duty or combining with any of the crews to impede the progress of the voyage, and by virtue of section 178(2) an exemption from liability under subsection (1) applies only to seafarers participating in a lawful strike after the ship has arrived and has been secured in good safety to the satisfaction of the master at a port, and only at a port in Jamaica.

The Committee points out once again, with reference to paragraphs 117-119 and 125 of its 1979 General Survey on the abolition of forced labour, that provisions under which penalties of imprisonment (involving an obligation to work) may be imposed for desertion, absence without leave or disobedience are incompatible with the Convention. Only sanctions relating to acts that are likely to endanger the safety of the ship or the life or health of persons (e.g. as provided for in section 177 of the new Shipping Act) have no bearing on the Convention.

The Committee therefore expresses the firm hope that the necessary measures will be taken in the near future to bring the legislation into conformity with the Convention, e.g. by amending or repealing the abovementioned provisions of the Shipping Act, 1998, and that the Government will provide information on progress made in this regard.

Kenya (ratification: 1964)

The Committee notes that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

> *Article 1(a), (c) and (d) of the Convention.* In its earlier comments the Committee referred to various provisions of the Penal Code, the Public Order Act, the Prohibited Publications Order, 1968, the Merchant Shipping Act, 1967, and the Trade Disputes Act (Cap. 234) under which imprisonment (involving an obligation to perform labour) may be imposed as a punishment for the display of emblems or the distribution of publications signifying association with a political object or political organization, for various breaches of discipline in the merchant marine and for participation in certain forms of strikes. The Committee has noted that the Government's latest report contains no new information on this subject. The Committee requests the Government to provide, in its next report, information on any new developments in this field, including the report of the Task Force on the Reform of Penal Laws and Procedures submitted to the Attorney-General in December 1997, and on other matters referred to in a request which is being addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Kuwait (ratification: 1961)

The Committee notes the Government's reports.

1. *Article 1(a) of the Convention.* For over ten years, the Committee has been referring in its comments to Legislative Decree No. 65 of 1979 respecting public meetings and gatherings, which establishes a system of prior authorization and, in the event of violations, provides for a penalty of imprisonment which involves, by virtue of the Penal Code, the obligation to work. The Committee noted that under section 6 of the above Decree, such authorization may be refused without giving reasons and that appeals against such refusal can be lodged only with the Minister of the Interior, whose decision is final. The Committee requested the Government to take the necessary measures to ensure observance of the Convention on this point.

In its latest report, the Government reiterates that the prior authorization provided for in the aforementioned Decree is a measure of national security and that it does not apply to private meetings.

The Committee recalls that it has noted on several occasions the importance for the effective observance of the Convention of legal guarantees respecting the right of assembly and the direct bearing that a restriction of this right can have on the application of the Convention. Indeed, it is often through the exercise of this right that political opposition to the established order can be expressed, and in ratifying the Convention the State has undertaken to guarantee persons who manifest this opposition in a peaceful manner the protection that the Convention affords them.

The Committee again asks the Government to take the necessary measures to bring Decree No. 65 of 1979 into conformity with the Convention, and, pending such action, to supply information on the application in practice of the provisions of the Decree, including the number of convictions for violations of its provisions and copies of any court decisions that define or illustrate their scope.

2. *Article 2(c) and (d).* In the comments that it has been making for more than ten years, the Committee has referred to Legislative Decree No. 31 of 1980 respecting security, order and discipline on board ship, under the terms of which certain breaches of discipline (unauthorized absence, repeated disobedience, failure to return to the vessel) committed by common agreement by three persons may be punished by imprisonment including an obligation to work.

The Committee noted that penalties imposed for violations of labour discipline or punishment for having participated in a strike do not come within the scope of the Convention where such acts endanger the safety of the vessel or the life or safety of the persons on board, but that sections 11, 12 and 13 of Legislative Decree No. 31 of 1980 do not limit the application of the penalties involved in such acts.

The Committee requested the Government to re-examine Legislative Decree No. 31 of 1980 in the light of the Convention and to indicate the measures taken to bring the legislation on merchant shipping into conformity with the Convention.

In its latest report, the Government again refers to the need to be able to grant the captain of a vessel the necessary powers to maintain discipline and safety on board.

The Committee once more expresses the hope that the Government will take the necessary measures to amend Legislative Decree No. 31 of 1980 in order to limit the imposition of penalties involving compulsory labour to cases in which the violations committed constitute a danger for the life or safety of the persons on board and that it will provide information on the action taken to this effect.

Liberia (ratification: 1962)

The Committee has noted the Government's report received in March 1999.

Article 1(a) of the Convention. 1. In its earlier comments the Committee observed that prison sentences (involving, under Chapter 34, section 34-14, paragraph 1, of the Liberian Code of Laws, an obligation to work) might be imposed in circumstances falling within *Article 1(a)* of the Convention under section 52(1)(b) of the Penal Law (punishing certain forms of criticism of the Government) and section 216 of the Election Law (punishing participation in activities that seek to continue or revive certain political parties). The Committee also requested the Government to provide a copy of Decree No. 88A of 1985 relating to criticism of the Government.

2. The Committee notes with interest the Government's indication in its report that section 216 of the Election Law and Decree No. 88A of 1985 have been repealed. **Since the copies of repealing Acts referred to by the Government as annexed to its report have not been received at the ILO, the Committee hopes that copies will soon be forwarded. The Committee also requests the Government to state whether section 52(1)(b) of the Penal Law is still in force, and if so, to indicate the measures taken with a view to ensuring observance of the Convention.**

3. The Committee previously noted that under a Decree adopted by the People's Redemption Council before its dissolution in July 1984, parties can be forbidden if they are considered to have engaged in activities or expressed objectives which go against the republican form of government or basic Liberian values. **The Committee again requests the Government to indicate whether the provisions of this Decree are still in force and, if so, to provide a copy of the text of the Decree.**

Article 1(c). 4. In its earlier comments the Committee noted that under section 347(1) and (2) of the Maritime Law, local authorities shall apprehend and deliver a seafarer who deserts from a vessel with the intention of not returning to duty and who remains unlawfully in a foreign country. Referring to paragraph 110 of its 1979 General Survey on the abolition of forced labour, the Committee must point out that measures to ensure the due performance by a worker of his service under compulsion of law (in the form of physical constraint or the menace of a penalty) constitute forced or compulsory labour as a means of labour discipline and are thus incompatible with the Convention. The Committee hopes that section 347(1) and (2) of the Maritime Law will soon be repealed and that the Government will supply information on the measures taken to this end.

5. The Committee also noted that under section 348 of the Maritime Law various other offences against labour discipline by seafarers such as incitement to neglect duty, assembling with others in a tumultuous manner, may be punished with imprisonment of up to five years (involving an obligation to work). The Committee referred to paragraphs 117 and 125 of its 1979 General Survey on the abolition of forced labour where it pointed out that sanctions relating to acts tending to endanger the ship or the life or health of persons on board do not fall within the scope of the Convention. However, as regards more generally breaches of labour discipline such as desertion, absence without leave or disobedience, all sanctions involving compulsory labour should be abolished under the Convention. In a great number of maritime nations, similar penal provisions have been repealed, restricted in scope to cases involving a danger to the ship or the life or health of persons, or otherwise amended so as to provide for a fine or some other penalty not falling within the scope of the Convention. The Committee therefore again expresses the hope that measures will be taken to bring section 348 of the Maritime Law into conformity with the Convention, and that the Government will provide information on the action taken to this end.

6. In its earlier comments the Committee referred to Decree No. 12 of 30 June 1980 prohibiting strikes. It notes with interest the Government's statement in its report that a draft law repealing the abovementioned Decree is now before the competent authority for passing into law. The Committee requests the Government to provide a copy of the repealing law as soon as it is adopted.

Libyan Arab Jamahiriya (ratification: 1961)

The Committee notes with regret that no report has been received from the Government. It must therefore repeat its previous observation on the following matters.

> 1. *Article 1(a), (c) and (d) of the Convention.* In the comments it has been making for a number of years, the Committee has referred to various provisions of the Publications Act of 1972, under which persons expressing certain political views or views ideologically opposed to the established political, social or economic system may be punished with penalties of imprisonment (involving, under section 24(1) of the Penal Code, an obligation to perform labour). The Committee also referred to sections 237 and 238 of the Penal Code, under which penalties of imprisonment (involving compulsory labour) may be imposed on public servants or employees of public institutions as a punishment for breaches of labour discipline or for participation in strikes, even in services the interruption of which would not endanger the life, personal safety or health of the whole or part of the population.

In its earlier comments the Committee noted the information supplied by the Government to the effect that Act No. 5 of 1991 on the application of the principles of the Green Book on Human Rights, and Act No. 20 of 1991 on the promotion of freedom, proclaim the right of each citizen to express his opinion, that Part 2 of the Green Book prohibits penalties such as forced labour, and that the provisions of the Publications Act No. 76 of 1972 and of the Penal Code would be amended. It also noted that under section 2 of Act No. 5 of 1991, amendments must be drawn up within a period of one year.

In its latest report, received in 1995, the Government reaffirms its intention to amend the provisions of the Publications Act No. 76 of 1972, and the Penal Code, referred to above, within the period of time prescribed in section 2 of Act No. 5, so as to ensure compliance with the Convention.

The Committee hopes that the amendments will now be made and that they will ensure that no penalties involving compulsory labour may be imposed as a punishment on persons who have expressed certain political or ideological opinions or who have committed breaches of labour disciplines or participated in strikes.

The Committee hopes that the Government will soon be in a position to supply a copy of the provisions adopted to this end.

2. In its earlier comments the Committee noted the information provided by the Government in 1992 in reply to its comments, to the effect that the Orders of the Higher Council of the Revolution of 1969, the texts of which it had been requesting, became null and void following the promulgation of Acts Nos. 5 and 20 of 1991.

The Committee noted that the text of Act No. 5 of 1991 had not been included in the list of texts transmitted by the Government and that section 35 of Act No. 20 of 1991 provides in general terms that all conflicting legislation is amended. It also noted that the Orders in question on the defence of the revolution (of 11 December 1969) and on trials for political and administration corruption (of 26 October 1969) are explicitly referred to in section 5(A)(8) of the Publications Act No. 76 of 1972. The Committee requested the Government to indicate the measures taken to formally repeal the texts in question and to transmit copies of the provisions adopted to this effect.

In the absence of a reply, the Committee again expresses the hope that the Government will supply copies of the Orders of 1969 or of any provisions repealing them, as well as copies of Act No. 5 of 1991 of the Green Book on Human Rights and the legislative texts governing the establishment, functioning and dissolution of associations and political parties.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Mauritius (ratification: 1969)

1. *Article 1(c) and (d) of the Convention.* In its earlier comments the Committee noted that under section 183(1)(a), (b), (c) and (e), read together with section 184(1) of the Merchant Shipping Act, No. 28 of 1986 (which entered into force on 15 January 1991 by virtue of Proclamation No. 1 of 1991), certain breaches of discipline by seamen (such as desertion, neglect or refusal to join the ship, absence without leave, neglect of duty) are punishable by imprisonment (involving an obligation to perform labour), and that under section 183(1), (3) and (4), seamen who are not citizens of Mauritius, and who commit such offences, may be conveyed on board ship for the purpose of proceeding to sea.

Referring to paragraphs 110-125 of its 1979 General Survey on the abolition of forced labour, the Committee recalled that, in order to be compatible with the Convention, the provisions mentioned above should be restricted to punishing breaches of labour discipline that endanger the safety of the ship or the life or health of persons on board.

In its latest report, the Government indicates that it is proposed to amend the Merchant Shipping Act to make it compatible with Convention No. 105 and other international Conventions and that the Government is seeking assistance from the International Labour Office and the International Maritime Organization with a view to making necessary amendments to the Act, including sections 183 and 184.

The Committee hopes that the Government will be able to indicate, in the near future, that sections 183 and 184 of the Merchant Shipping Act have been amended, so as to ensure compliance with the Convention on this matter.

2. *Article 1(d).* In comments it has been making for many years, the Committee has observed that under sections 82 and 83 of the Industrial Relations Act, 1973, submission of any industrial dispute to compulsory arbitration is left to the discretion of the minister. The decision handed down following this procedure is enforceable (section 85) and any strike becomes unlawful (section 92). Finally, participation in a strike thus prohibited may be punished by imprisonment (section 102) involving compulsory labour (section 35(1)(a) of the Reform Institutions Act). The Committee observed that these provisions are incompatible with *Article 1(d)* of the Convention. It pointed out that for provisions regarding compulsory arbitration, enforceable with sanctions involving compulsory labour, to be compatible with the Convention, their scope should be limited to essential services in the strict meaning of the term (namely those the interruption of which would endanger the life, personal safety or health of the whole or part of the population).

The Committee notes the Government's indication in its report that a draft amendment bill, intended to revise the Industrial Relations Act, 1973, will be examined by the authorities concerned and consideration will be given to the observations made by the Committee. The Government adds that section 102(1) of the Industrial Relations Act has not been applied during the period under review.

Recalling that for a number of years the Government has indicated that no sanctions have been applied by virtue of the abovementioned provisions, referring also to bills intended to modify them, the Committee trusts that the Government will not fail to take, in the very near future, the necessary measures to bring the legislation into conformity with the Convention on this point, and that it will supply information on the provisions adopted to this effect.

Nigeria (ratification: 1960)

The Committee notes that no report has been received from the Government. It must therefore repeat its previous observation on the following matters.

> The Committee hopes the Government will supply a report for examination at its next session, and that it will indicate in detail the position in relation especially to *Article 1(a), (c), (d) and (e) of the Convention*, bearing in mind among other things the questions raised in the previous comments concerning these matters:

1. The Government is requested to indicate whether the State Security (Detention of Persons) Decree, No. 2 of 1984, as amended, continues in force and whether forced or compulsory labour may be imposed under it in circumstances incompatible with the Convention.

2. The Government is requested to indicate steps taken to ensure observance of the Convention in respect of: (i) section 81(1)(b) and (c) of the Labour Decree, 1974, as regards direction to fulfil contracts of employment on pain of imprisonment involving an obligation to work; (ii) section 117(b), (c) and (e) of the Merchant Shipping Act, as regards possible imprisonment with the obligation to work for seafarers in breach of discipline; and (iii) section 13(1) and (2) of the Trade Disputes Decree, No. 7 of 1976, as regards similar imprisonment for participation in strikes.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Pakistan (ratification: 1960)

1. The Committee notes the Government's report. It also notes the comments made in July 1999 by the All Pakistan Federation of Trade Unions (APFTU) on the application of a number of the ratified ILO Conventions, including Convention No. 105, which were transmitted to the Government in July 1999 for such comments as might be judged appropriate. The Committee hopes that the Government will refer to the APFTU's comments in its next report.

Article 1(c) and (d) of the Convention. 1. In its earlier comments made under the present Convention and the Forced Labour Convention, 1930 (No. 29), the Committee noted that the Pakistan Essential Services (Maintenance) Act, 1952, and corresponding provincial Acts, prohibit employees from leaving their employment, even by giving notice, without the consent of the employer, as well as from striking, subject to penalties of imprisonment that may involve compulsory labour. These restrictions apply permanently to all employment under the federal and provincial governments and local authorities and any service related to transport or civil defence and may in addition be applied, by notification, to employment in any autonomous educational body, as well as other employment that the Government considers essential. In its comments referred to above the APFTU states that the provisions of the Essential Services Act apply to workers employed in various public utilities such as WAPDA, Railway, Telecommunication, Karachi Port Trust, Sui Gas, etc., and these workers cannot resign from their service and cannot go on strike. The Committee also notes from a report by the ILO South Asia Multidisciplinary Advisory Team that the Ghazi Barotha Hydro Power Project (in which the World Bank is providing assistance for the construction of a power complex on the Indus river) has been declared by the Government an essential service, so that the abovementioned restrictions apply to workers on the project.

2. The Government indicated in its report of 1997 that the application of the 1952 Act had been further narrowed, and there were only six categories of establishments which were considered critical for the security of the country and the welfare of the community. This matter was also raised before the Conference Committee in 1999 on which occasion the representative of the Government indicated that the Government was "not proud of this piece of legislation" and that it was only resorted to when situations had reached an "extreme stage". The representative also repeated information previously given to this Committee to the effect that the scope of the Act had been progressively

limited to five services. The representative also informed the Conference Committee that amendment of the Act would be considered by the newly established Tripartite Commission on the Consolidation, Simplification and Rationalization of Labour Laws and that the report of this Commission would be available in due course.

3. In its latest report on the Convention, the Government states that the 1952 Act has laid down specific objectives for its application for only a limited time, and the criteria for its application is to secure the defence or security of the country and the maintenance of such supplies or services as are essential to the life of the community. The Government concludes that it may not be possible to repeal the Act which serves to control the disruptive activity and industrial action.

4. While noting these indications, the Committee recalls that, as pointed out above, the essential services legislation applies permanently to all employment under federal, provincial and local authorities and has been applied by notification to a range of other activities whose interruption would not endanger the life, personal safety or health of persons and which are thus not essential services in the strict sense. Referring to the explanations provided in paragraphs 110 and 123 of its 1979 General Survey on the abolition of forced labour, the Committee recalls that the Convention does not protect persons responsible for breaches of labour discipline or strikes that impair the operation of essential services in the strict sense or in other circumstances where life and health are in danger; however, in such cases there must exist an effective danger, not mere inconvenience. Furthermore, the workers concerned must remain free to terminate their employment by reasonable notice. The Committee further recalls that the effect of statutory provisions preventing termination of employment of indefinite duration by means of notice of reasonable length is to change a contractual relationship based on the will of the parties into service by compulsion of law, and is thus incompatible with both the present Convention and the Forced Labour Convention, 1930 (No. 29), likewise ratified by Pakistan. The Committee trusts that the Pakistan Essential Services Act and corresponding provincial Acts will be either repealed or amended in the near future so as to ensure the observance of the Convention, and that the Government will report on the action taken to this effect.

5. In comments made for a number of years, the Committee has referred to sections 100 to 103 of the Merchant Shipping Act, under which penalties involving compulsory labour may be imposed in relation to various breaches of labour discipline by seafarers, and seafarers may be forcibly returned on board ship to perform their duties. The Government reaffirms its previous indications that the abovementioned sections of the Act have been reintroduced in the Merchant Shipping Bill, 1996, with some modifications. The Committee previously observed, however, that section 206 of the new Bill still contains provisions which would permit the imposition of penal sanctions of imprisonment (which may involve compulsory labour) in respect of various breaches of labour discipline, as well as provisions under which seafarers may be forcibly returned to their ships. Referring once again to paragraphs 117 to 119 of its 1979 General Survey on the abolition of forced labour, the Committee trusts that the necessary amendments will at last be adopted so as to remove the penalties involving compulsory labour from sections 100 and 100(ii), (iii) and (v) of the Merchant Shipping Act (or limit their scope to offences committed in circumstances endangering the safety of the ship or the life, personal safety or health of persons) and to repeal the provisions of sections 101 and 102 of the Act under which seafarers may be forcibly returned on

board ship to perform their duties. The Committee requests the Government to provide information on progress made in this regard.

II. The Committee observes that the Government's report does not contain any new information on the following points already raised by the Committee in its previous observation.

Article 1(a) and (e). 6. In comments made for a number of years, the Committee has referred to certain provisions in the Security of Pakistan Act, 1952 (sections 10-13), the West Pakistan Press and Publications Ordinance, 1963 (sections 12, 36, 56, 59 and 23, 24, 27, 28 and 30) and the Political Parties Act, 1962 (sections 2 and 7) which give the authorities wide discretionary powers to prohibit the publication of views and to order the dissolution of associations, subject to penalties of imprisonment which may involve compulsory labour. The Government has repeated that any punishment under the Security of Pakistan Act, 1952, and the Political Parties Act, 1962, would be inflicted after fair trial by a court of law in which the accused would be given a full opportunity to defend and prove their innocence.

7. The Committee refers again to the explanations provided in paragraphs 102 to 109 of its 1979 General Survey on the abolition of forced labour, where it indicated that compulsory labour in any form, including compulsory prison labour, falls within the scope of the Convention in so far as it is exacted in one of the five cases specified in *Article 1* of the Convention. It is both the requirement of due process of law and the substance of penal provisions aimed at the punishment of political dissent with sanctions involving compulsory labour which are covered by *Article 1(a)* of the Convention.

8. The Committee noted the Government's indication in the report received in December 1996 that the Registration of Printing Press and Publications Ordinance, 1996, had been promulgated, and that efforts had been made in this Ordinance to fulfil the obligations under the Convention. The Committee understood that an Ordinance promulgated under article 89(2) of the Constitution was required to be laid before the National Assembly and would be considered repealed at the expiration of four months from its promulgation if it was not approved by the Assembly. The Committee expressed the hope that the Government would soon provide a copy of the 1996 Ordinance, as well as information on action by the National Assembly to approve the Ordinance and on any measures taken to repeal the West Pakistan Press and Publications Ordinance, 1963.

9. In the absence of any new information concerning sections 10 to 13 of the Security of Pakistan Act, 1952, and sections 2 and 7 of the Political Parties Act, 1962, the Committee once again expresses the hope that the necessary measures will soon be taken also to bring these provisions into conformity with the Convention and that the Government will report on progress achieved. Pending action to amend these provisions, the Government is again requested to supply information on their practical application, including the number of convictions and copies of any court decisions defining or illustrating the scope of the legislation. The Committee also once again requests the Government to supply an updated copy of the provisions of the Jail Code governing prison labour.

10. In its earlier comments, the Committee referred to sections 298B(1) and (2) and 298C of the Penal Code, inserted by the Anti-Islamic Activities of Quadiani Group, Lahori Group and Ahmadis (Prohibition and Punishment) Ordinance, No. XX of 1984,

under which any person of these groups who uses Islamic epithets, nomenclature and titles is punished with imprisonment for a term which may extend to three years.

11. The Committee has noted the Government's repeated statement in its reports that religious discrimination does not exist and is forbidden under the Constitution and the laws of Pakistan, and that any law, custom or usage having the force of law, in so far as it is inconsistent with the rights conferred by the Constitution, is void to the extent of the inconsistency. According to the Government, religious freedom exists as long as the feelings of another religious community are not injured and anyone, regardless of religious conviction, will be punished for professing religion in a way that injures the feelings of another community. The provisions of the Penal Code referred to were drafted with a view to ensuring peace and tranquillity, particularly in places of worship. Forced labour as a result of religious discrimination does not exist in Pakistan; all minorities enjoy all fundamental rights and courts are free to uphold and safeguard the rights of minorities.

12. The Committee also took note of the report presented to the United Nations Commission on Human Rights in 1991 by the Special Rapporteur on the Application of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Conviction (document E/CN.4/1990/46 of 12 January 1990), referring to allegations according to which proceedings were instituted, on the basis of sections 298B and C of the Penal Code, in the districts of Guranwala, Shekhupura, Tharparkar and Attock against a number of persons having used specific greetings.

13. The Committee further noted from the report by the Special Rapporteur presented to the Commission on Human Rights in 1992 (document E/CN.4/1992/52 of 18 December 1991) that nine persons were sentenced to two years' imprisonment for acting against Ordinance XX of 1984 in April 1990, and that another person was sentenced to one year of imprisonment in 1988 for wearing a badge, the sentence being upheld by the Court of Appeal. It is also stated that the Ahmadi daily newspaper had been banned during the past four years, its editor, publisher and printer indicted, and Ahmadi books and publications banned and confiscated. There is reference also to the sentencing under sections 298B and 298C of the Penal Code of two Ahmadis to several years' imprisonment and a fine of 30,000 rupees (in the case of failure to pay the fine, imprisonment would be extended by 18 months).

14. The Committee noted the Government's repeated indications in its reports that the report of the Special Rapporteur was not based on facts. The Committee therefore requested the Government to provide factual information on the practical application of the provisions of sections 298B and 298C of the Penal Code, including the number of persons convicted and copies of court decisions, in particular in the proceedings mentioned by the Special Rapporteur, as well as of any court ruling that sections 298B and 298C are incompatible with constitutional requirements.

15. The Committee noted that the Government had not supplied the information requested on court practice to contradict the findings of the Special Rapporteur. In its report received in December 1996, the Government indicated that the Quadianis were prohibited under sections 298B and 298C of the Pakistan Penal Code from using epithets, descriptions and titles reserved for certain holy personages or places or posing as Muslims, and that the main purpose of this restriction was to differentiate them and prohibit them from preaching the religion as Islam after they have been declared non-

Muslim. It would appear to the Committee that a restriction imposed for this main purpose and enforced with penalties involving compulsory labour falls within the scope of *Article 1(a) and (e)* of the Convention, which prohibits the imposition of penalties involving compulsory labour as a punishment for expressing views opposed to the established political or social system or as a means of social or religious discrimination.

16. The Government further stated in its report received in December 1996 that the Ahmadis had been accorded all rights and privileges guaranteed to non-Muslim minorities under the Constitution and laws of Pakistan, but that some religious practices of Ahmadis are similar to those of Muslims which arouse resentment among the latter and thus pose a threat to public order and safety. Consequently, the Government considered that it had to take certain legislative and administrative measures in order to maintain the peace.

17. The Committee took due note of these indications. Referring to the explanations provided in paragraphs 133 and 141 of its 1979 General Survey on the abolition of forced labour, the Committee recalled that, as provided in the Universal Declaration of Human Rights, limitations may be imposed by law on the rights and freedoms enumerated in it "for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society". Thus, the Convention does not prohibit punishment by penalties involving compulsory labour of persons who use violence, incite to violence or engage in preparatory acts aimed at violence. But where punishment involving compulsory labour is aimed at the peaceful expression of religious views, or where such punishment (for whatever offence) is meted out more severely, or even exclusively, to certain groups defined in social or religious terms, this falls within the scope of the Convention.

18. The Committee therefore reiterates its hope that the necessary measures will be taken in relation to sections 298B and 298C of the Penal Code to ensure the observance of the Convention.

Article 1(c). 19. In comments made for many years, the Committee has referred to sections 54 and 55 of the Industrial Relations Ordinance (No. XXIII of 1969) under which whoever commits any breach of any term of any settlement, award or decision or fails to implement any such term may be punished with imprisonment which may involve compulsory labour. The Committee expressed the hope that the Government would take the necessary measures to bring the Industrial Relations Ordinance into conformity with the Convention, by repealing sections 54 and 55 of the Ordinance or by repealing the penalties which may involve compulsory labour, or by limiting their scope to circumstances endangering the life, personal safety or health of the population.

20. The Government previously indicated that a Bill to amend the Industrial Relations Ordinance had been presented to the National Assembly and that it was proposed to remove from the provisions of sections 54 and 55 the element of compulsory labour by replacing imprisonment with what was called "simple imprisonment". This was confirmed by the Government representative to the Conference Committee in 1990. The Government had since indicated in its reports, up to that received in December 1996, that the proposed amendment was under active consideration. The Committee expresses the hope that the Government will soon be in a position to indicate that the Industrial Relations Ordinance has been brought into conformity with the Convention.

[The Government is asked to supply full particulars to the Conference at its 88th Session and to report in detail in 2000.]

Panama (ratification: 1966)

The Committee refers to its observation under Convention No. 29.

Paraguay (ratification: 1968)

The Committee refers to its observation under Convention No. 29.

Philippines (ratification: 1960)

Article 1(d) of the Convention. In its earlier comments the Committee noted that in the event of a planned or current strike in an industry considered indispensable to the national interest, the Secretary of Labor and Employment may assume jurisdiction over the dispute and settle it or certify it for compulsory arbitration. Furthermore, the President may determine the industries indispensable to the national interest and assume jurisdiction over a labour dispute (section 263(g) of the Labor Code, as amended by Act No. 6715). The declaration of a strike after such assumption of jurisdiction or submission to compulsory arbitration is prohibited (section 264), and participation in an illegal strike is punishable by imprisonment (pursuant to section 1727 of the Revised Administrative Code, an obligation to perform labour) of up to three years (section 272(a) of the Labor Code). The revised Penal Code also lays down sanctions of imprisonment (section 146).

The Committee pointed out, with reference to paragraph 123 of its 1979 General Survey on the abolition of forced labour, that any compulsory arbitration enforceable with penalties involving compulsory labour must be limited to services whose interruption would endanger the life, personal safety or health of the whole or part of the population. It noted from the Government's report received in November 1994 that amendments to section 263(g) of the Labor Code had been proposed in Senate Bill No. 1757 which sought to limit the situation only to disputes affecting industries performing essential services and that the Bill had been filed with Congress. The Government's latest report simply refers to a proposal to amend section 263(g) with a view to limiting its application only to disputes in services the interruption of which would endanger the life, personal safety or health of the whole or part of the population, but contains no information on the progress made in consideration of the abovementioned Bill No. 1757 in Congress.

The Committee trusts that the Government will soon be in a position to indicate progress in bringing the legislation into conformity with the Convention.

It has raised several other points in a request addressed directly to the Government.

Rwanda (ratification: 1962)

The Committee notes the Government's report as well as the copy of the Act annexed thereto.

Article 1(a) of the Convention. In its previous comments, the Committee had noted that Order No. RV111/29, regarding demonstrations in the streets and public meetings, establishes under its section 8, that any person who has organized or participated in an unauthorized demonstration or meeting shall be liable to penal servitude including, by virtue of sections 39 of the Penal Code and 40 of Order No. 111/127 of 30 May 1961, regarding prison organization, compulsory labour.

The Government had previously indicated that the provision in question had been repealed by Act No. 33/91 of 5 August 1991. Having noted this Act, the Committee observes with regret that, under section 9, prison sentences involving forced labour are still provided for in cases where persons organize a demonstration or an assembly without giving prior notice or obtaining the authorization of the authorities. It also notes with regret the information contained in the Government's latest report that "persons who express certain political opinions or display ideological opposition to the established political, social or economic order, may incur penalties of forced or compulsory labour under the provisions of Act No. 33/91 of 5 August 1991 respecting demonstrations in the street and public meetings, without prejudice to the provisions of the Penal Code, and in particular sections 166 and 167".

Referring to the explanations provided in paragraphs 133-140 of its 1979 General Survey on the abolition of forced labour, the Committee recalls that, where penalties involving compulsory labour are used to enforce a prohibition to express views or opposition to the established political, social or economic system (above all where there is no incitement to violence or use of violent methods), this is not in conformity with the Convention, whether such prohibition is imposed directly by law or by a discretionary administrative decision.

The Committee urges the Government to take the measures necessary to ensure that persons who hold or express – by means or methods that neither use violence nor incite to violence – an opinion opposed to the established political, social or economic system do not incur sentences involving penalties in contravention to the Convention. It requests the Government to provide information on the measures taken or envisaged in this regard.

Senegal (ratification: 1961)

The Committee notes the Government's report.

Article 1(c) and (d) of the Convention. With reference to the comments that it has been making since 1965, the Committee notes that sections 223 and 243 of the Merchant Shipping Code, which provide for a penalty of imprisonment involving compulsory labour in the event of certain breaches of labour discipline, have not yet been amended. It also notes that the Government's latest report contains no information on the measures taken in this respect.

On many occasions, the Committee has noted the Government's repeated indications that the Merchant Shipping Code was being revised. The Committee trusts that the Government will make every effort to bring the Merchant Shipping Code into conformity with the Convention and that it will provide information on the measures taken for this purpose.

Article 1(b). The Committee requested the Government to provide information on the organization and activities of youth camps and to provide a copy of the applicable provisions. In its latest report, the Government states that information on the organization of youth camps is not yet available. The Committee once again hopes that the Government will make every effort to provide the requested information.

Sierra Leone (ratification: 1961)

The Committee notes with regret that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

> In its earlier comments the Committee requested the Government to supply indications on the evolution of the political situation, in so far as it relates to the application of the Convention. It noted that the Constitution adopted in 1991 (Act No. 6 of 1991) which provided for the recognition and protection of fundamental human rights and freedoms, had been suspended. The Government informed the Committee in its latest report (1995) that public meetings of a political nature remained banned and that new guidelines for publications had been introduced.
>
> The Committee noted that in July 1996 the Constitutional Reinstatement Provisions Act reinstated the suspended parts of the 1991 Constitution. It further noted the change of government in May 1997 and hoped that the Government would supply information on the developments of the political situation in the country, in so far as the application of the Convention is concerned, and in particular, information on the application of provisions concerning the freedom of speech and press, freedom of peaceful assembly and association. The Committee also asked the Government to provide, in its next report, the information requested in its previous observation on the application in practice of sections 24, 32 and 33 of the Public Order Act (concerning public meetings, the publication of false news and seditious offences). Please also provide particulars of the outcome of work of the Constitutional Review Committee, to which the Government referred in its 1995 report.

The Committee hopes that the Government will take all necessary measures in the near future.

Spain (ratification: 1967)

Article 1(a) of the Convention. In its earlier comments the Committee referred to sections 123, 146, 147, 148, 161, 164 and 242 of the Penal Code, under which sentences of imprisonment (involving compulsory labour by virtue of section 29(1) of the Act of 26 September 1979 on the general organization of prisons and section 183(1) of the Prison Regulations (Royal Decree No. 1201 of 8 May 1981)) could be imposed for insult to various state authorities; this, in practice, could have a bearing on the observance of *Article 1(a)* of the Convention.

The Committee notes with satisfaction that the Penal Code adopted in 1995 abolished prison sentences for most of the offences concerned, exempts those who can prove the truth of their allegations from criminal liability and contains no more provisions under which the expression of political views or views opposed to the established political system may be punished.

Syrian Arab Republic (ratification: 1958)

The Committee notes that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

> *Article 1(a), (c) and (d) of the Convention.* In its earlier comments the Committee referred to certain provisions of the Economic Penal Code, the Penal Code, the Agricultural

> Labour Code and the Press Act, under which prison sentences involving compulsory labour can be imposed as a means of political coercion or as punishment for expressing views opposed to the established political system, breach of labour discipline or participation in strikes. For a number of years the Government has been indicating that a draft legislative decree amending various sections of the Penal Code so as to eliminate all obligation to perform prison labour was being examined by the competent authorities, and in 1995 it was approved by the Council of Ministers and submitted to the Ministry for the Affairs of the Presidency of the Republic. However, in its reports received in 1997 the Government indicated that the Ministry of Justice is still considering the amendment of the Penal Code and has referred the matter to the committee responsible for the amendment of the Code. The Committee trusts that the legislative decree referred to by the Government will be adopted in the near future and asks the Government to provide, in its next report, information on the progress made in this regard. It also hopes the Government will pursue its consultations with the International Labour Office regarding the amendment of the agricultural labour legislation and the various texts mentioned above, with a view to ensuring compliance with the Convention.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

United Republic of Tanzania (ratification: 1962)

The Committee notes the Government's report.

Article 1(a), (b), (c) and (d) of the Convention. In its earlier comments the Committee referred to a number of provisions contained in the Penal Code, the Newspapers Act, the Merchant Shipping Act and the Industrial Court Act, under which penalties involving compulsory labour may be imposed in circumstances falling within the scope of the Convention. It noted the Government's statement in its report received in 1992 that ministerial consultations aimed at amending the legislation referred to above were continuing, bearing in mind the political situation following the adoption of the ninth constitutional amendment. The Constitution, as amended, has allowed for multi-party politics; and the Political Parties Act, 1992, has provided specifically for formation and registration of political parties.

The Committee expressed the hope that the draft legislation under consideration would provide for the repeal of all provisions which are incompatible with the Convention and that the Government would indicate the action taken in this regard. The Committee also asked the Government to provide information on the amendment or repeal of the provisions of various legal instruments to which it referred in its comments under Convention No. 29 and which are contrary to *Article 1(b)* of this Convention.

The Committee previously noted the Government's indication in its 1996 report that proposals regarding amendment of the Merchant Shipping Act in order to bring it into conformity with the Convention had been submitted by the trade union to the Government for the purpose of being tabled within the Labour Advisory Board (LAB) for consideration by the tripartite partners, and that the Government intended to supply information on the position of the LAB as soon as its work was completed. The Government indicates in its latest report that it is working towards finalizing amendments to the Merchant Shipping Act.

The Committee notes the Government's indication in its report that the Newspapers Act, Penal Code, Economic and Organized Crime Act, Societies Ordinance and some other pieces of legislation have been referred to the Law Reform Commission, which has prepared a report and submitted it to Parliament. With reference to its observation on Convention No. 29, the Committee also notes from the Government's report that the Human Resources Deployment Act of 1983 has been repealed and replaced by the National Employment Promotion Service Act of 1999 and asks the Government to supply a copy of the repealing text, as well as a copy of the new Act. It also requests once again that copies be supplied of the Political Parties Act, Economic and Organized Crime Act and Penal Code as in force, which the Government referred to as attached to the report, but which have not been received at the ILO.

The Committee trusts that the necessary action will be taken in the near future for the repeal of all provisions incompatible with the Convention, and that the Government will soon report progress made in this regard. The Committee is again addressing a more detailed request on the above matters directly to the Government.

[The Government is asked to supply full particulars to the Conference at its 88th Session and to report in detail in 2000.]

Trinidad and Tobago (ratification: 1963)

The Committee notes that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

> *Article 1(c) and (d) of the Convention.* 1. The Committee's earlier observations referred to sections 157 and 158 of the Shipping Act, 1987, which provide for imprisonment – under the Prisons Rules, involving compulsory labour – in cases of disobedience, desertion and absence without leave; and section 162, empowering forcible return on board ship of seafarers in desertion. The Committee pointed out that these provisions are incompatible with the Convention, in so far as they imply not only sanctions including compulsory work but also legal compulsion in the form of direct physical constraint or the menace of a penalty for participation in strikes or breaches of labour discipline or to ensure performance of services by workers (see paragraphs 110 and 117 of the 1979 General Survey on the abolition of forced labour). The Committee noted the Government's indication in 1996 that no use had been made of those sections. It reiterates its hope that the Government will ensure that the legislation is brought into conformity with the Convention on these points and that the next report will include details.
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> 2. The Committee has previously referred to section 8(1) of the Trade Disputes and Protection of Property Ordinance, which lays down penalties involving compulsory labour for breach of contract by persons employed in certain public services and is not limited in this respect to services whose interruption might endanger the existence or well-being of the whole or part of the population (see especially paragraph 114 of the General Survey). It noted that no penalties had been imposed under section 8(1), but again requests the Government to bring the legislation on this point into conformity with the Convention.
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> 3. The Committee's previous comments referred to section 69(1)(d) and (2) of the Industrial Relations Act, Cap. 88.01, which prohibits teachers from taking part in a strike, subject to penalties of imprisonment involving the obligation to work. It trusts that the Government's review of this matter has now been completed and that the next report will contain details of the measures taken to ensure compliance with the Convention in this respect.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Uganda (ratification: 1963)

The Committee notes the Government's report.

Article 1(a), (c) and (d) of the Convention. In its earlier comments, the Committee referred to (i) the Public Order and Security Act, No. 20 of 1967, empowering the executive to restrict an individual's association or communication with others, independently of the commission of any offence and subject to penalties involving compulsory labour; (ii) sections 54(2)(c), 55, 56 and 56A of the Penal Code, empowering the Minister to declare any combination of two or more persons an unlawful society and thus render any speech, publication or activity on behalf of or in support of such combination illegal and punishable by imprisonment (involving an obligation to perform labour); and (iii) section 16(1)(a) of the Trade Disputes (Arbitration and Settlement) Act, 1964, under which workers employed in "essential services" may be prohibited from terminating their contract of service, even by giving notice; sections 16, 17 and 20A of the same Act, under which strikes may be prohibited in various services that, while including those generally recognized as essential, also extend to other services, and contravention of these prohibitions is punishable with imprisonment (involving an obligation to work).

The Committee notes the Government's statement in its report that the labour legislation has been revised to enhance the application of the Convention, but the revised legislation is still in the form of a draft Bill. The Committee trusts that a bill to repeal or revise the abovementioned provisions will be adopted in the near future and that the legislation will be brought into conformity with the Convention. It hopes that the Government will supply information on progress made in this respect and that it will forward a copy of the revised legislation as soon as it is adopted.

United Kingdom (ratification: 1957)

The Committee notes the Government's reply to its earlier comments.

Article 1(c) and (d) of the Convention. 1. The Committee previously noted that section 59(1) of the Merchant Shipping Act, 1995, provides that a seafarer who combines with other seafarers employed on the same ship at a time while the ship is at sea to disobey lawful commands, neglect any duty which is required to be discharged, or impede the progress of a voyage or the navigation of the ship, is liable, on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both. According to section 59(2), a ship is treated as being at sea at any time when it is not securely moored in a safe berth. The Government stated in its report received in October 1997 that section 59 is applicable to seafarers who withdraw their labour in furtherance of an industrial dispute.

The Committee notes the Government's indications in its latest report concerning consultations which took place with the shipping industry on whether or not section 59 should be repealed or amended so that it applied only to mutinies but not strikes. It notes with interest that it was concluded that other parts of the Act and other legislation existed to deal effectively with actions arising from mutinies, if section 59 was repealed. Noting the Government's indication that further negotiations are ongoing with a view to commencing the repeal process as soon as possible, the Committee hopes that the necessary measures will be taken in order to bring the legislation into conformity with the Convention on this point.

The Committee is addressing a request on certain other points directly to the Government.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Afghanistan, Angola, Bahamas, Bangladesh, Barbados, Belize, Benin, Burundi, Cameroon, Chad, China (Hong Kong Special Administrative Region), Comoros, Cuba, Czech Republic, Djibouti, Estonia, Fiji, France, Gabon, Ghana, Iraq, Ireland, Israel, Italy, Jordan, Kenya, Latvia, Lithuania, Mali, Republic of Moldova, Mozambique, Pakistan, Papua New Guinea, Peru, Philippines, Rwanda, San Marino, Saudi Arabia, Slovakia, Suriname, United Republic of Tanzania, United Kingdom, United States, Yemen.*

Information supplied by *Costa Rica* in answer to a direct request has been noted by the Committee.

Convention No. 106: Weekly Rest (Commerce and Offices), 1957

Syrian Arab Republic (ratification: 1958)

The Committee notes the information provided by the Government in its last report on the application of the Convention. It notes that the Ministry of Labour has undertaken to prepare a new draft legislative decree to amend the provisions of the Labour Code on which the Committee has been commenting in relation to certain international labour Conventions ratified by the Government. In this respect, the Committee recalls that it has been drawing the Government's attention since 1964 to the need to give effect to *Article 8, paragraph 3, of the Convention* by adopting measures to guarantee compensatory rest to persons who, under the exceptions provided for in section 120 of the Labour Code, work on the weekly rest day. The Committee hopes that the draft legislative decree will be adopted in the near future and that the Government will be in a position to provide practical information in its next report on the progress achieved in the application of the Convention.

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In addition, requests regarding certain points are being addressed directly to the following States: *Djibouti, Latvia, Slovenia.*

Convention No. 108: Seafarers' Identity Documents, 1958

Barbados (ratification: 1967)

The Committee notes the absence of the specimen document requested as part of the 1998 report on the application of the Convention. It further notes with concern that, according to the Government's report, the seafarers' identity document is no longer issued to Barbadian nationals, and that "a seafarer entering Barbados would need to present a national passport and proof of engagement to join the vessel".

The Committee recalls the obligation of a State party under *Article 2(1) of the Convention* to issue a seafarer's identity document to each of its nationals who is a seafarer on application by him. Therefore, the competent authority must have and make available a specific document for seafarers containing the full particulars prescribed by the Convention and, regardless of the document's national denomination, it must contain the statement that it is issued for the purpose of the Seafarers' Identity Documents Convention, 1958 (No. 108), of the International Labour Organization, as required under *Article 4(2)* of the Convention.

Furthermore, the Committee recalls that under *Article 6(1) and (2)* of the Convention the identity document issued pursuant to this Convention shall suffice for a seafarer wishing to take temporary shore leave in a State party to the Convention; it need not be accompanied by a passport. In addition, where the identity document has space for appropriate entries, it entitles the seafarer to enter the territory for transit passage to join a ship or for repatriation, subject to the provision under *Article 6(3)* of the Convention according to which the receiving State may require documentary proof concerning the seafarer's engagement.

The Committee recalls its comments on the application of this Convention in its last report (International Labour Conference, 87th Session, 1999, Report III (Part 1A), pages 21-23) and requests the Government to: (i) reinstate the identity document forthwith for seafarers who are Barbadian nationals, (ii) enact new regulations or amend existing ones so that foreign seafarers may enter Barbados with a valid identity document issued pursuant to this Convention; and (iii) provide the Committee with copies of the relevant legislative and/or regulatory texts ensuring the application of the Convention in law and in practice.

[The Government is asked to report in detail in 2001.]

Norway (ratification: 1970)

The Committee notes with interest the information in the Government's report and in particular the comments concerning the application in practice submitted by the Norwegian Shipowners' Association, which considers this Convention extremely important and regrets that a large number of seafarers recruited for international service are nationals of countries which have not ratified this Convention. The comment further states that "with the Schengen requirements in Western Europe, it is difficult to obtain easy transfer of seafarers for mustering on and off. Nationals of countries which have not ratified ILO Convention No. 108 consequently must have a visa, even for transfer between ship and airport".

In this connection, the Committee recalls its comments on the application of the Convention in its last report (International Labour Conference, 87th Session, 1999, Report III (Part 1A), pages 21-23).

Russian Federation (ratification: 1969)

The Committee notes the information in the Government's report and recalls the statement made by the Government representative before the International Labour Conference in June 1999 concerning problems with the application of the Convention in law and in practice.

In addition, the Committee understands that in September 1999 the Office provided technical assistance at the request of the Government in order to examine these problems, and that new regulations governing the precise form and content of the seafarers' identity document are currently being prepared in consultation with shipowners' and seafarers' organizations, as required under *Article 4(6) of the Convention*. It is further understood that a draft text of the regulations will be forwarded to the Office for comments in the near future.

The Committee requests the Government to keep it informed of any further developments concerning the application of this Convention.

[The Government is asked to report in detail in 2000.]

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Canada, Djibouti, Greece, Guinea-Bissau, Ireland, Kyrgyzstan, Latvia, Mauritius, Portugal, Sri Lanka.*

Convention No. 110: Plantations, 1958

Requests regarding certain points are being addressed directly to the following States: *Nicaragua, Panama, Philippines.*

Convention No. 111: Discrimination (Employment and Occupation), 1958

Afghanistan (ratification: 1969)

1. The Committee notes with regret that no report has been received from the Government. Further to its previous observations, the Committee notes with increasing concern the communication of the International Confederation of Free Trade Unions (ICFTU) dated 15 October 1999, alleging violation of the Convention by the Taliban authorities. In its communication, the ICFTU draws attention to the following United Nations documents: the Report of the Special Rapporteur on the Situation of Human Rights in Afghanistan of the United Nations Commission on Human Rights (E/CN.4/1999/40), the Commission on Human Rights Resolution 1999/9 on the Situation of Human Rights in Afghanistan, the Report of the Secretary-General on the Situation of Women and Girls in Afghanistan of the Sub-Commission on the Promotion and Protection of Human Rights (E/CN.4/Sub.2/1999/13) and the Sub-Commission Resolution 1999/14 on the Situation of Women and Girls in Afghanistan. The communication was transmitted to the Government for comment on 12 November 1999. Further, the Committee notes the concerns expressed by the Worker and Employer members at the Conference Committee on the Application of Standards in June 1999 on the application of the Convention by Afghanistan.

2. In its previous observation, the Committee had noted with deep concern the continuing grave abuses of the human rights of women in Afghanistan, and in particular the severe restrictions on their education and employment. It noted not only that the widespread discrimination imposing harsh conditions upon women and girls had remained one of the most preoccupying aspects of the situation of human rights in

Afghanistan, but that the situation had dramatically deteriorated throughout 1997 and 1998. Further, the Committee noted with grave concern the information contained in the Report of the Special Rapporteur of the United Nations Commission on Human Rights (A/52/493 of 16 October 1997) and the Report of the United Nations Secretary-General (E/CN.4/1998/71 of 12 March 1998), which confirmed earlier comments received in 1997 from the ICFTU, and noted by the Committee, alleging serious violations of the Convention. The Committee also took notice of a number of texts of regulations issued by the Department for the Preservation of Virtue and the Prevention of Vice of Afghanistan restricting women's employment as regards jobs in international and national agencies and in hospitals and clinics. It considered such regulations to constitute a further confirmation of the policy of discrimination against women and girls in education and employment. Noting also that male education has suffered significantly since the banning of female employment and education by the Taliban authorities and that even the delivery of humanitarian assistance had been seriously obstructed, the Committee requested the Government to provide detailed information on all the measures being taken to remove the restrictions and prohibitions on females in education and employment.

3. Noting the information contained in the abovementioned reports of 1999 of the United Nations, as well as in the latest Interim Report of the UN Special Rapporteur on the Situation of Human Rights in Afghanistan (A/54/422 of 30 September 1999), the Committee remains very concerned about the continuing grave violations of the human rights of women and girls in Afghanistan. The Committee notes from the 1999 Reports of the UN Secretary-General that women continue to be denied the most basic rights, including the right to all levels and types of education and employment outside the home. The impact of the restrictions on women's employment and education has been felt most profoundly in urban areas where women used to work in all sectors of employment, including in scientific, academic and technical fields as well as in government positions. Moreover, the reports indicate that, in certain areas, restrictions imposed by the Department for the Preservation of Virtue and the Prevention of Vice of Afghanistan have been enforced through the use of cruel, inhuman and degrading punishment and ill-treatment, including the beating of women by Taliban guards in public places. The Committee further notes that "hardly any girls and only 24 per cent of the boys attend school" and "that in most parts of the country, women continue to suffer widespread poverty, low literacy levels, limited opportunities to participate in public life, limited availability to heath care facilities and restrictions on their employment in urban areas".

4. In its previous observation, the Committee noted the decision of the Kabul Caretaker Shura of 28 April 1998 concerning the employment of female professionals, and hoped that this decision signalled a change in the restrictive policy on women's employment. In this connection, the Committee notes that the UN Special Rapporteur on the Situation of Human Rights in Afghanistan observed some relaxations of the restrictions imposed on the rights of women, notably, that Afghan women are currently allowed to work in the medical sector as doctors and nurses; that a recent edict of 1999 exempted needy widows from the restriction on employment in urban areas; and that on 24 April 1999, the Minister for Health issued a first protocol officially allowing Afghan women to work with a foreign aid organisation. The Committee also notes that a more flexible attitude was expressed by the Taliban representatives with regard to access of

girls to education, and that Taliban authorities have allowed support for home-based schools for girls in Kandahar, parallel to improved education for boys. While noting these few positive indications with regard to the employment and education of women and girls, the Committee is, nevertheless, extremely disturbed by the findings of the UN Special Rapporteur on Violence Against Women, who visited Afghanistan in September 1999 and described the violations of human rights and discrimination against women as systematic. The Rapporteur found that the denial of employment to women had resulted in a rise in begging and prostitution in the country. Noting that the restrictions and prohibitions on females in education and employment, referred to in the Committee's previous observation, appear still to be in force and to have detrimental consequences on the livelihoods of women, the Committee urges the Government to remove these restrictions and prohibitions and to take the necessary steps to ensure respect for the basic rights of women and girls in employment and education. The Committee reiterates its previous request to indicate whether any female professionals have been hired or rehired pursuant to the abovementioned decision of the Kabul Caretaker Shura or the other agreements, and to provide general information on how the decision and agreements are applied in practice.

5. The Committee notes from the Interim Report of the Special Rapporteur (30 September 1999) that the Taliban authorities indicated that a Constitution was in preparation, but that no draft was yet available for discussion. The Committee would be grateful to receive a copy of the draft text of the Constitution, once available.

6. *Discrimination on other grounds*. In its previous observation, the Committee noted with concern that, according to the 1998 report of the UN Secretary General on the Situation of Human Rights in Afghanistan, former members of the Communist Party had suffered discrimination in employment. The Committee noted from the report that measures taken in 1997 affected some 70 professors and lecturers from Kabul University and the Polytechnic Institute, as well as 42 employees from the Taliban Ministry of Public Health and 122 military prosecutors, and it requested full information on all measures taken to ensure non-discrimination in employment and occupation on the basis of political opinion. The Committee has been informed that Afghan intellectuals, community leaders, former army officers and civil servants, as well as locally recruited staff of international organizations, have reportedly been arrested, and tortured or killed, on account of their political activities. It urges the Government to take the necessary measures to ensure non-discrimination in employment and occupation on the basis of political opinion and to provide full information in this regard. Further, the Committee notes that the abovementioned United Nations reports contain indications of grave human rights abuses on grounds of ethnicity, including restrictions on freedom of movement, in particular of the Hazaras in the Central Highlands. The Committee hopes that the next report will contain full information on all measures taken to protect members of ethnic minorities from discrimination in employment and occupation.

7. The Committee urges that full information be provided in the next report on all points covered in its comments which requested detailed information on the abovementioned violations of the Convention and on the points covered in the communication transmitted by the ICFTU in 1997. The Committee must express its growing outrage at the persistence of these developments, which constitute gross and systematic violations of the Convention and of the basic human rights that should be guaranteed to all women as well as men. Noting the detrimental consequences on the

well-being of the society as a whole and in particular on the livelihoods of women, the Committee cannot not but urge the immediate cessation of all such reprehensible actions.

Algeria (ratification: 1969)

1. *Discrimination on the basis of religion.* In its previous observation, the Committee noted that the Constitution had been amended in November 1996 and raised the question whether sections 29 (equality before the law, without any discrimination on grounds of birth, race, sex, opinion or any other personal or social condition or circumstance), 32 (guarantee of fundamental freedoms and human rights), 33 (guarantee of protection of fundamental human rights for individuals and associations, and of individual and collective freedoms) and 36 (inviolability of freedom of conscience and freedom of opinion), read together, guaranteed constitutional protection against religious discrimination. Noting that the Government's report does not touch on this question, the Committee would be grateful if the Government would confirm or repudiate this interpretation and repeats its request for copies of all court decisions concerning these articles.

2. *Discrimination on the basis of sex.* The Committee notes that, in 1997, the Government adopted two Decrees: the first on part-time work (No. 97-473 of 8 December 1997) and the other on home workers (No. 97-474 of 8 December 1997). The principal aim of these texts is to allow such workers, primarily women, to contribute to the social security scheme and thus be entitled to social insurance. While appreciating that the abovementioned provisions contribute to improving the employment conditions of these workers, the Committee requests the Government to indicate the measures taken or envisaged to ensure that the proliferation of "atypical" employment relations, several of which are prejudicial to income and job security, do not unduly disadvantage women on the labour market.

3. The Committee notes the detailed information supplied by the Government, in response to its earlier comments, on the efforts that it is making to develop education for young girls, combat illiteracy among women and provide training so that they may obtain qualifications. It also notes the Government's statement that despite incorporating equality between men and women into the legislative and regulatory texts governing the world of work, in practice, women are still confronted with discrimination in the field of employment resulting from stereotypes which exist regarding a woman's place in society. It therefore encourages the Government to continue its efforts to further its national policy of promotion of equality of opportunity and of treatment in respect of employment and occupation.

4. The Committee is addressing a request on certain other points directly to the Government.

Argentina (ratification: 1968)

1. The Committee notes with interest the information provided by the Government in response to its previous comments. According to this information, the Executive has included on the agenda of the National Congress (by Decree No. 57 of 27 January 1999) a Framework Bill respecting the public service which explicitly provides for the repeal of sections 8(g) and 33(g) of Act No. 22140 of 1980, respecting the basic terms and

conditions of employment in the public service, which prohibits access to the national public administration and requires the dismissal from their jobs of officials who belong or have belonged to groups advocating the denial of the principles of the Constitution, or who adhere personally to a doctrine of this nature. The Committee had noted in its previous comments a previous Bill to repeal these provisions, which was not finally adopted. It once again expresses the hope that the provisions in question will be repealed and requests the Government to keep it informed of the progress achieved in the amendment by the National Congress of the Act respecting the basic terms and conditions of employment in the public service.

2. The Committee notes with interest Decree No. 66/99 of 29 January 1999, approving the collective labour agreement for the national public administration, which will be in force until 31 December 2000 and does not retain the provisions 8(g) and 33(g) of Act No. 22140, which had been the subject of the Committee's previous comments. The Committee also welcomes the fact that, under section 129 of this collective agreement, the parties agree to eliminate any measure or practice which might result in discriminatory treatment or inequality between workers on the grounds of sex, nationality, race, religion, politics, trade union membership or any other criterion.

3. The Committee is raising other points in a request which it is addressing directly to the Government.

Azerbaijan (ratification: 1992)

The Committee notes with satisfaction the adoption of the new Labour Code of 1 February 1999 (which entered into force on 1 July 1999). The Committee notes that, according to section 16(1) of the new Code, no discrimination shall be permitted among employees on the basis of "citizenship, sex, race, nationality, language, place of residence, economic standing, social origin, age, family circumstances, religion, political views, affiliation with trade unions or other public associations, professional standing, beliefs, or other factors unrelated to professional qualifications, job performance or professional skills of the employees, nor shall it be permitted to establish privileges and benefits or directly limit rights on the basis of these factors". The Committee notes in particular that social origin and political opinion, which were formerly excluded under the 1993 Labour Code and which are grounds specified expressly in the Convention are now covered by section 16(1) of the new Labour Code.

The Committee is raising other points regarding the application of the Convention in a request directly addressed to the Government.

Bangladesh (ratification: 1972)

The Committee notes the information contained in the Government's report, including the statistics.

1. In its previous observation, the Committee noted the various initiatives undertaken by the Government aimed at reducing the very high level of illiteracy among women and girls. It also noted the concern expressed by the Government that the educational curricula were not gender sensitive and often reflected the traditional roles of men and women, thereby reinforcing those roles. The Committee hoped that this issue would receive more attention and that the Government would take active measures to

reach its target of ensuring that females comprised 60 per cent of all recruitment for primary schoolteachers. According to the Government's report, the literacy rate for women and girls increased from 25.8 per cent in 1991 to 38.1 per cent in 1996. A project on a higher secondary level programme for girls is awaiting final government approval: it is expected that after the implementation of the project in 2002, the percentage of women in higher education will increase. The Committee notes this information with interest and requests the Government to provide information on the progress made under the project. The Committee notes nevertheless that the Government's report does not include any information on the measures taken to reach the 60 per cent target for the recruitment of female primary schoolteachers nor on the measures taken to make school curricula more gender sensitive. The Committee hopes that the Government will supply in its next report detailed information on these matters and encourages the Government to continue to take measures to enhance the literacy rate and education level of girls and women.

2. Further to its previous comments on women's participation in public sector employment, the Committee notes that the Government's report contains statistical data for 1993 indicating that women's participation in the public sector continues to be very low, with women only filling 7 per cent of the officers' ranks, 10 per cent of the staff positions and 5 per cent of the low-level positions in the public service. The Committee further notes that neither the Government's report nor the ILO *Yearbook on Labour Statistics* (1998) contains more recent data on the distribution of men and women employed in the public sector. It therefore hopes that the Government will provide in its next report more recent statistical data and information to permit the Committee to assess fully the progress made in ensuring the application of the Convention in the public sector. The Committee further notes that a few women have been recruited into the police force, but that the proposal to revise the recruitment procedures to permit women to enter the police force or to facilitate this, still has not been approved. The Committee would be grateful if the Government would indicate the progress made on this initiative as well as on any measures taken, including the provision of suitable training at each level in the public sector, to ensure that women can actively participate in the public service and at higher levels of organizations, where their representation is still negligible.

3. With regard to women's employment in the private sector, the Committee noted, in its previous observation, that women workers in Bangladesh were concentrated in industries such as the construction industry (where they work as manual labourers), the manufacturing industry and the export-oriented labour-intensive industry, which absorb mostly unskilled and low-paid labour. It also noted that the manufacturing sector did not always provide the minimum wage and working environment stipulated in the labour legislation. With regard to the situation in the garment industry, which employs predominantly women, the Committee requests the Government to provide information on the manner in which labour standards on conditions of work and wages are enforced for women working in this industry. The Committee further notes that the statistical information contained in the Government's report does not provide any new information with regard to women's employment in the various sectors of the economy, and requests the Government to provide more recent information, in so far as it is available, so as to enable an assessment of the trend in women's employment.

4. Further to its previous comments on the difficulties in enforcing existing labour legislation, particularly the lack of knowledge and commitment by the judiciary and law

enforcement agencies, the Committee notes that gender sensitization training was arranged for labour inspectors and judges by the respective ministries in collaboration with different United Nations agencies. Furthermore, the Government states that the number of women judges increased from 40 in 1994 to 55 in 1997. The Committee welcomes these initiatives and asks the Government to indicate in its next report whether they have had any effect on the enforcement of legislation designed to ensure equality for women. The Committee further notes that the Government's report contains no reply to its previous request for information on the review undertaken by the high-level committee headed by the Minister of Law, Justice and Parliamentary Affairs to examine and update existing laws so as to eliminate all forms of discrimination. The Committee has been informed that a tripartite Labour Law Reform Committee (LLRC) has been reconstituted by notification of 24 August 1998 to review the draft Labour Code of 1994. It requests the Government to provide information on the extent to which these two committees coordinate with each other and the progress achieved in the legislation reform process.

The Committee is raising other points in a request addressed directly to the Government.

Benin (ratification: 1961)

The Committee notes with interest that, under sections 4 and 5 of the Labour Code of 27 January 1998, employers are prohibited from taking into account the sex, age, race, ethnic origin or descent of workers (section 4), or the social origin, membership or non-membership in a trade union, trade union activity, origin or opinions, in particular religious and political opinions, of workers (section 5), in making decisions regarding recruitment and other labour conditions, including vocational training, career development, promotion, remuneration, provision of social benefits, or termination of the employment contract. It also notes that section 31 of the Code establishes that handicapped persons must not be subjected to discrimination in respect of employment. With reference to *Article 1, paragraph 1(b), of the Convention*, the Committee asks the Government whether it intends to add the criteria of age and disability to the prohibited forms of discrimination covered by the Convention in Benin.

The Committee is addressing a request regarding other points directly to the Government.

Bosnia and Herzegovina (ratification: 1993)

1. The Committee notes that at its 276th Session (November 1999), the Governing Body of the ILO approved the report of the committee set up to examine the representation examining non-observance by Bosnia and Herzegovina of Convention No. 111, made under article 24 of the ILO Constitution by the Union of Autonomous Trade Unions of Bosnia and Herzegovina (USIBH) and the Union of Metalworkers (SM). According to this committee, the facts alleged by the USIBH and the SM – which are not contested by the Government – that is, the dismissal of workers solely on the grounds of their Serbian or Bosnian origin and their replacement by workers of Croatian origin, are corroborated by a coherent body of evidence. The Governing Body committee therefore considered that the facts, as described by the USIBH and the SM, constitute a violation of Convention No. 111, since the type of discrimination described in the

representation is of the kind prohibited by *Article 1(a)* of that instrument, in that it involves an exclusion based solely on national extraction or religious belief which has the effect of destroying equality of opportunity and treatment in employment and occupation between workers of Croatian extraction and the workers of Bosnian or Serbian extraction employed by the "Aluminium" and "Soko" undertakings. Although the representation refers only to Convention No. 111, the Governing Body considers that the alleged facts also violate certain provisions of the Labour Inspection Convention, 1947 (No. 81), and the Termination of Employment Convention, 1982 (No. 158), both ratified by Bosnia and Herzegovina. In its recommendations, the Governing Body entrusted the follow-up of this matter to the Committee of Experts.

2. The Committee, like the Governing Body, is aware of the complexity of the situation in Bosnia and Herzegovina, and that the country has recently emerged from a civil war essentially fuelled by ethnic and religious conflict. It notes in this connection that the United Nations Committee on the Elimination of Racial Discrimination, in its Decision 6(53) on Bosnia and Herzegovina of August 1998 (A/53/18, paragraph IIB6), expressed "its alarm about the many violations of human rights in Bosnia and Herzegovina and the depth of the persisting divisions reflecting clear patterns of discrimination and separation based on national and ethnic origin", despite important progress made in certain fields. The Committee is therefore convinced that one of the best means of promoting national reconciliation and peace is the establishment of the rule of law and the formulation and implementation of a genuine national policy of equality of opportunity and treatment in all spheres – including in employment and occupation. It therefore welcomes the fact that the human rights and freedoms set forth in many international instruments protecting human rights annexed to the Constitution have the binding force of the provisions of the Constitution and are applied in the entire territory of Bosnia and Herzegovina. It notes that under the Constitution all courts, all administrative bodies and all bodies exercising public authority are obliged to apply and respect the rights and freedoms enshrined in these instruments.

3. The Committee therefore requests the Government to indicate in its next report the measures taken to ensure that the workers dismissed from the "Aluminium" and "Soko" factories solely on the grounds of their Bosnian or Serbian extraction or their religion: (a) receive adequate compensation for the damage that they have sustained; (b) receive payment of any wage arrears and any other benefits to which they would be entitled if they had not been dismissed; and (c) are as far as possible reinstated in their posts without losing length of service entitlements. It also requests the Government to indicate whether a formal dismissal procedure, in accordance with the provisions of Convention No. 158, which has been ratified by Bosnia and Herzegovina, has been instituted, in the event that the reinstatement of all or some of the workers in question is not possible.

4. In more general terms, the Committee hopes that a genuine national policy to promote equality of opportunity and treatment in respect of employment and occupation will be formulated and implemented so as to eliminate all discrimination in this sphere – as called for under *Article 2 of the Convention* – and that the Government will supply detailed information on the measures taken in this connection in its next report. It also hopes to receive information on the measures taken to inform and train magistrates and labour inspectors and all other public servants concerned in the application of the Convention. Finally, noting the action of the Federation Ombudsman to promote human

rights and the establishment of the rule of law, referred to by the United Nations Committee for the Elimination of Racial Discrimination in Decision 6(53) on Bosnia and Herzegovina, the Committee requests the Government to transmit a copy of the Ombudsman's most recent report.

5. See also the comments made under Conventions Nos. 81 and 158.

Brazil (ratification: 1965)

1. The Committee notes the Government's report and annexed documentation. It notes with interest the numerous measures taken in legislation and practice to implement the principles of the Convention. Taking into account the positive nature of the Government's efforts in this regard, the Committee also notes that sufficient time has elapsed since the initiation of the Government's National Human Rights Programme and related measures to warrant an initial assessment of the progress achieved in eliminating employment-related discrimination in the country. The Committee points out, however, that the report provides no concrete information on the employment situation in the country which would enable the Committee to evaluate the results obtained in promoting the application of the Convention.

2. *Discrimination on the grounds of race, colour and ethnic origin.* In light of the general nature of the information supplied in the report, the Committee takes note of information relevant to the Convention presented by the Government to various United Nations committees (CERD/C/263/Add. 10; CERD/C/SR.1157-1159; CCPR/C/81/Add.6; and CCPR/C/SR.1506-1508). It notes the concluding observation of the Committee on the Elimination of Racial Discrimination that the indigenous, black and mestizo communities in Brazil continue to suffer from deep structural inequalities, despite the many positive measures taken by the Government, which include the adoption of the 1988 Constitution and the establishment of a human rights commission, an interministerial working group for the promotion of the black population, a ministry of agrarian reform and the promulgation of the National Human Rights Programme.

3. *Discrimination on the ground of sex.* With respect to the situation of women in Brazil, the Committee notes the United Nations Human Rights Committee's concluding observations that, despite some improvements in their situation, women continue to face *de jure* and de facto discrimination, including discrimination in access to the labour market (CCPR/C/Add.66, paragraph 318, September 1996).

4. Further to its previous comments, the Committee welcomes the adoption of Bill No. 382-B, promulgated as Act No. 9799 on 26 May 1999, which amends the 1943 Consolidated Labour Act to include provisions prohibiting discrimination on the basis of sex, age, colour and familial status, including pregnancy, in respect of access to employment, vocational training and terms and conditions of employment. It notes with interest that Act No. 9799 prohibits, inter alia, the publication of discriminatory employment advertisements, as well as the termination of or refusal to hire, promote or train an individual on the grounds of sex, age, race or familial status. The Committee also notes that section 373(A) of Act No. 9799 contemplates the adoption of temporary measures to establish policies on equality of opportunity and treatment for men and women workers, particularly policies designed to correct inequalities that affect women's access to employment and vocational training as well as women's general terms and conditions of employment. The Committee would appreciate receiving

information in the Government's next report on any measures adopted in this regard, as well as specific information regarding the application in practice of Act No. 9799 and its impact on the position of women and racial and ethnic minorities in the Brazilian labour market.

5. The Committee notes with interest the Government's undertaking to disseminate information to the public as widely as possible concerning the rights established by the domestic anti-discrimination legislation, including Act No. 9459/97 (on discriminatory practices that constitute criminal offences), Act No. 9029 (which prohibits employers from requiring the presentation of a sterilization certificate as a condition precedent for employment) and Act No. 9799/99 (prohibiting, inter alia, discrimination in access to employment and training). The Committee notes from the report that the Government is not aware of any new cases brought under Act No. 9459/97. The Committee requests the Government to supply information in its next report on the reasons why no complaints or cases are being brought under Act No. 9459/97 or other anti-discrimination legislation. It asks the Government to keep it informed of any new complaints or cases brought concerning employment discrimination.

6. In addition to the legislative measures adopted to promote Brazil's equal opportunity policy, the Committee notes with interest the information supplied by the Government on the activities undertaken in connection with its "National Programme for Human Rights" launched in May 1996. The Government indicates that, since the programme was initiated, the Secretary on Human Rights of the Department of Justice has promoted measures to ensure the defence and promotion of human rights and collaborated with initiatives to promote equality of opportunities. The Committee would appreciate receiving information on the impact of the activities of the Secretary in this regard.

7. The Committee welcomes the information supplied by the Government on its campaign "Brazil, Gender and Race – United for Equal Opportunities", launched in July 1997 within the framework of the National Programme for Human Rights, particularly information on those activities designed to raise public awareness of discriminatory employment practices and of the provisions of the Convention. The Committee would be grateful if the Government would continue to provide information on awareness-raising activities conducted relevant to the Convention.

8. The Committee notes with interest the information presented by the Government on the establishment of Centres for the Prevention of Discrimination in Employment and Occupation which, in conjunction with the Regional Departments of Labour and Employment (DRTEs), are responsible for the application of the Government's equal opportunity policy at the state level, and carry out the activities necessary for the application of the Convention under the programme. The Committee notes from the report that these centres are composed of, inter alia, state and municipal government representatives, trade unions, enterprises, universities, associations, organizations representing minority groups, women, blacks, indigenous people and disabled persons. The report reflects that the centres promote awareness of discriminatory employment practices, and receive and examine complaints of discrimination, which are sent to the Public Ministry, or to the Attorney General's Office if mediation provided by the DRTEs is unsuccessful. The Committee would be grateful

if the Government would continue to provide information on the specific activities undertaken by the centres in the different Brazilian states, including statistical information on the number and type of discrimination complaints received, the action taken and the outcome.

9. The Committee notes that, pursuant to *Article 3(f) of the Convention*, ratifying States undertake to indicate in their annual reports the action taken in pursuance of their national equal opportunity policy and the results secured by such action. The Committee draws the Government's attention to the report form for Convention No. 111, which calls for the Government to supply specific information, including reports, studies and statistical data, that may show the changes which have occurred as a result of measures taken in pursuance of the national policy, particularly in respect of the vocational training, employment and conditions of employment in the various branches of activity and at various occupational levels, of persons defined according to the criteria set forth in *Article 1*. Accordingly, the Committee requests the Government to provide precise information in its next report, including indicators and statistical data, on the impact of the Government's equal opportunity policy on the distribution of the indigenous, black and mestizo population in the various sectors of economic activity and at different occupational levels, as well as on their position in respect of access to occupational guidance, vocational training and employment. Please also provide information on the same points with respect to the situation of women in the Brazilian labour market. The Committee would be grateful if the Government would supply information on any measures taken or contemplated to provide education, occupational guidance and vocational training to enable male and female children belonging to the above minority groups, including those referred to as street children, to enter the workforce in the future.

10. The Committee is addressing a request directly to the Government on other points.

Chad (ratification: 1966)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> 1. The Committee notes the communication from the Trade Union Confederation of Chad (CST) of 27 June 1997 alleging non-application by Chad of the principle of equality in employment and occupation for women workers. The CST notes that the new Constitution was adopted by referendum on 31 March 1996 and that several of its provisions aim at the elimination of all forms of discrimination against women. Nevertheless, it notes that the Government has taken no concrete measures to facilitate access of women to public and private employment. The CST proposes that the ILO should provide the Government with urgent technical assistance in order to remedy the technical shortcomings, particularly the lack of material facilities in the ministerial department responsible for the promotion of women, and to enable it to collect statistics and carry out comparative research on the employment situation of women.
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> 2. The Committee notes that the CST's observations were sent to the Government for comment. It hopes that the Government's report will arrive soon and that it will contain full information on the various points raised by the CST as well as detailed information on the implementation of the new Constitution. On this latter point, the Committee notes that article 32 of the Constitution states that no one can be discriminated against in their work on the grounds of their origin, opinions, beliefs, sex or matrimonial situation but does not seem

> to include the other grounds of discrimination set out in *Article 1, paragraph 1(a), of the Convention*, namely race and colour.
>
> 3. In this regard, the Committee draws the Government's attention to paragraph 58 of its 1988 General Survey on equality in employment and occupation which states that where provisions are adopted in order to give effect to the principle contained in the Convention they should include all the grounds of discrimination laid down in *Article 1, paragraph 1(a)*. The Committee hopes that the Government's next report will provide details on the manner in which protection against discrimination on the grounds of race and colour is provided under the national policy on equality in employment.
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> [...]

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Croatia (ratification: 1991)

1. The Committee notes that the Government's report does not respond to any of the points raised in its previous comments. The Committee is therefore compelled to reiterate the following points set forth in its earlier observation:

> 1. According to the Union of Autonomous Trade Unions of Croatia (UATUC), discrimination in employment on the basis of sex, age, and ethnic origin is a frequent occurrence, especially with respect to vacancy announcements. It states that, even though employers have the obligation under the Employment Act (section 57) to inform the Croatian Employment Agency of every vacancy, in practice, employers often fail to do so and use sex or age as a condition for employment. The Committee notes from the Government's previous report that violation of this section is subject to a fine and requests the Government to provide information on the number of violations noted and fines imposed under this section. The UATUC further states that the workers most frequently dismissed were elderly persons, women, disabled workers, and workers of non-Croatian ethnic origin, the latter being particularly frequent in the national administration. In its response, the Government states that it is not in a position to reply to these claims in the absence of more precise information, but it can confirm that there are no such cases in the state administration. The Committee hopes to be provided with information, and copies, of any administrative or judicial cases in which discriminatory hiring or dismissal practices have been alleged. It also hopes that the Government will take all necessary steps to ensure the full application of section 2 of the Labour Act of 1995 prohibiting discrimination in employment on various grounds including those covered by the Convention.
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> 2. In regard to the UATUC statement that women are discriminated against on the labour market, the Committee notes the Government's indication that it is aware that there is hidden discrimination against women in the field of employment, and that, therefore, on 18 December 1997 the Government adopted the National Policy for the Promotion of Equality which provides for a series of measures to promote equality for women in different fields. The Committee notes that the National Policy is based on the principle that, although women have the same rights under the legislation, there is room for improvement with regard to the application of existing legislation in order to ensure full equality in practice. It notes in this respect that a gender analysis of legislation will be undertaken to determine its impact on women, including the extent to which it promotes equality and provides the necessary protection for working women. The Committee requests the Government to provide information on the findings of this examination, as well as any legislative changes considered or made, based on these findings. It also requests the Government to provide information on the implementation of other measures proposed in the National Policy in so

far as they relate to the promotion of equality and prohibition of discrimination against women in employment.

3. With regard to the comments of the UATUC that there is no national employment policy in Croatia and that rights provided for in other programmes cannot be implemented for lack of appropriate budget allocations, the Committee notes the Government's indication that the Chamber of Deputies of the Croatian Parliament adopted a National Employment Policy on 27 February 1998 and imposed on the Government an obligation to develop and implement a programme of promotional measures, which it adopted in March 1998. The Committee refers to its comments under the Employment Policy Convention, 1964 (No. 122).

2. The Committee hopes that the Government will provide the information requested in its next report.

3. The Committee is raising other points in a request addressed directly to the Government.

Cuba (ratification: 1965)

1. The Committee notes the Government's report, and the attached legislative texts, as well as the communication made by the World Confederation of Labour (WCL) and the Government's reply.

2. *Access to higher education.* The Committee notes the detailed information supplied by the Government on the fundamental principles and the structure of the educational system in Cuba, including the clarifications provided in the Government's report, on the consultations with the Cuba Communist Party and the trade unions provided for in section 21 of Resolution No. 1 of 1994, for purposes of preparing the conditions for the higher education entrance exams. The Government indicates that the Resolution cited has been repealed and that, in its place, a joint MINED-MES (Ministry of Education and Ministry of Higher Education) Resolution, for the academic year 1998-99 was issued on 18 March 1999. The fourth section of the joint MINED-MES Resolution regulates the entrance exams for higher education and specifies those criteria to be taken into account in determining the rankings, which are the academic marks obtained in 10th and 11th grades and in the first stage of 12th grade (which represents 50 per cent of the total points) and the results obtained in the entrance exam (which represent the remaining 50 per cent).

3. With respect to the allegations submitted in 1992 by the Latin American Central of Workers (CLAT) concerning certain university professors terminated under a procedure established under Legislative Decree No. 34, the Government confirms that this Legislative Decree has been repealed. The Government informs the Committee of the promulgation of two regulations that establish the duties and prohibitions common to all workers in education: the Regulation on the Educational Activity of Employees of the Ministry of Education (Resolution No. 150/98 of 13 July 1998) and the Regulation on Labour Discipline in Higher Education (Resolution No. 36/98 of 6 April 1998). In respect of the Regulation on the Educational Activity of Employees of the Ministry of Education, the Committee notes that section 7(a) provides that the duties of the teachers concerned include "the communist education of the new generations". The Committee also notes that section 29 provides that: "The following will be considered extremely serious violations in the area of educational activity: ... (b) to publicly defame or

denigrate the institutions of the Republic and the heroes and martyrs of the homeland; ... and (g) to carry out grave and public acts contrary to the morals and ideological principles of our society ...". In this respect, the Committee recalls its previous comments that, in protecting individuals from discrimination in employment and occupation on the ground of political opinion, the Convention implies the recognition of this protection in relation to those activities that express or manifest clear opposition to established political principles or, simply, a different opinion. The Committee has pointed out that a general obligation to conform to an established ideology would be deemed discriminatory (see the Special Survey on equality in employment and occupation, 1996, paragraphs 45 to 47). The Committee requests the Government to supply information in its next report on the manner in which this legislation is applied in practice, including details on cases of violations.

4. *Conditions of employment of journalists.* The Committee thanks the Government for having supplied a copy of Resolution No. 1/99 of the Ministry of Labour and Social Security, which establishes the criteria for evaluating work produced by journalists. The Committee notes that the element of political opinion is not listed among the criteria set forth in the resolution cited for evaluating work produced by journalists (see section 4 and Annex 2 of Regulation No. 1/99). The Committee also notes the alleged incidents of harassment against journalists for having expressed political opinions contrary to the Government, referred to in the Report of the Special Rapporteur on Human Rights in Cuba of the United Nations Commission on Human Rights (E/CN.4/1998/69, paragraphs 45 to 55, January 1998). In this regard, the Committee reiterates its comments in point 3 above, and once again requests the Government to provide information on the employment conditions of those journalists that express political opinions contrary to the Government, in particular, the journalists mentioned in the report cited.

5. The Committee notes a communication from the WCL dated 15 September 1998, alleging the Government's non-observance of Convention No. 111. The WCL's comments were transmitted to the Government on 9 October 1998. The Government replied by letters dated 11 November 1998 and 22 February 1999. In its communications, the WCL indicated that a certain individual was discriminated against on the basis of his political opinions, in violation of the Convention. Documents supplied by the WCL indicate that a group of workers, the "Committee on Basic Suitability", located in the workplace of the mentioned individual, declared him to be "unsuitable" to work in his sector due to his political activities and, as a consequence, terminated his employment relationship with the enterprise. In its communication of 22 February 1999, the Government indicated that an investigation into the case had been concluded and that it had been decided to annul the decision of the "Committee on Basic Suitability" and reinstate the worker in the position which he had occupied previously. The Government also stated that the committee in question did not have the authority to make the type of decision it made in the case mentioned, in that it exceeded the functions attributed to it by the legislation in force.

6. The Committee is also directing a request directly to the Government on certain points.

Ecuador (ratification: 1962)

The Committee notes the information provided by the Government in its report and in the annexes.

1. The Committee notes with interest from the report of the National Council for Women (CONAMU) annexed to the report, that the Constitutional Court declared section 12 of the Cooperatives Act to be unconstitutional, since this section prohibited the participation of women in the establishment of cooperatives, when their husbands were members of the same cooperative. It further notes that CONAMU, together with the Standing Committee for Women, Youth, Children and the Family, had set up the Board of Labour and Access to Resources, taking reform of the Cooperatives Act as a priority objective. The Committee hopes that, among the reforms to be carried out, attention will be given to the previous comments of the Committee on section 17(b) of the regulations issued under the Cooperatives Act, by virtue of which married women require the authorization of their husbands to be members of housing, agricultural and family vegetable garden cooperatives. The Committee has also referred to section 12 of the Commercial Code, under which married women require the authorization of their husbands to enter into commerce, and sections 66, 80 and 105 of the above Code, which prohibit married and single women from entering the stock market, being stockbrokers or public auctioneers. With regard to the above provisions of the Commercial Code, the Government has previously stated that, since 1989, the Court of Constitutional Guarantees has suspended the application of sections 12, 66, 80 and 105 of the Commercial Code with regard to the restrictions placed on women (RS.TGC.RO 224: 3 July 1989). Having already noted this information, the Committee nonetheless emphasizes the importance of bringing the national legislation formally into conformity with the Convention, by explicitly repealing or amending the provisions which are not in conformity with it, thereby ensuring that there is no uncertainty as to the legislation in force. In this respect, the Committee once again recalls the commitment made by the Government to submit legal forms to the National Congress to bring the national legislation into full compliance with the Convention and the provisions of the National Constitution and it requests the Government to continue supplying information on the measures adopted in this regard.

2. In its earlier comments, the Committee had noted that, despite the efforts being made to eradicate the remnants of racial discrimination, such discrimination still exists in practice, affecting the indigenous peoples and the Afro-Ecuadorian communities, and requested information on the action taken or under way and on any measures taken or envisaged to ensure equality of opportunity and treatment in employment and occupation for indigenous and Afro-Ecuadorian groups. While the annexes to the report contain a number of projects specific to the indigenous communities, these do not refer to employment and occupation, nor do they reflect the existence of a policy of national scope to guarantee equality of opportunity and treatment in employment and occupation, for the indigenous peoples and the Afro-Ecuadorian communities. The Committee also indicated that it will give further consideration to this aspect of the question under the Indigenous and Tribal Peoples' Convention, 1989 (No. 169), ratified by the Government in 1998. The Committee therefore again requests the Government to provide information on this matter and is addressing the question in greater detail in its direct request.

3. The Committee is addressing a request on other points directly to the Government.

Germany (ratification: 1961)

1. The Committee notes the Government's detailed report and annexed documentation, including data from the Federal Statistics Office and relevant jurisprudence.

2. *Discrimination on the ground of sex.* The Committee notes that women represent 63 per cent of the total workforce in establishments to which the Federal Public Service Act applies, other than the federal public service. It notes with interest the slow but consistent increase in the percentages of women occupying posts at the highest grades as civil servants and public employees directly employed in the federal public service, with 18 per cent of higher posts being occupied by women in 1996 (up from 16 per cent in 1993), although women are still under-represented in higher posts overall. It notes, for example, that despite the high proportion of women in establishments to which the Federal Public Service Act applies, other than the federal public service, only 24.5 per cent of posts in the highest grades, including senior management positions, were occupied by women in 1996. The Committee notes the Government's statement that the Second Equality Act, which entered into force on 1 September 1994, is making an appreciable contribution to increasing women's participation in senior public administration posts and in facilitating workers' conciliation of professional and family life. The Committee notes that section 2 of the Advancement of Women Act, enacted under the Second Equality Act, provides that, as long as women are employed in individual areas in smaller numbers than men, government departments are required to increase the proportion of women in supervisory and managerial positions as civil servants, judges, employees and workers, and in the promotion or transfer of women to higher level positions. Section 8 of the Second Equality Act also requires departments to promote further job training for women, and provides for special accommodations to be made to facilitate the participation of workers with family responsibilities in additional training. The Government indicates, however, that the Act for the Advancement of Women and the Reconciliation of Family and Work in the Federal Administration and in the Federal Courts, which came into effect under the Second Equality Act, needs to be applied more consistently. The Committee requests the Government to provide information on the impact of these legislative measures on the employment of women in higher-level positions in the federal public sector, as well as information on the measures taken and results achieved in this area at the Länder level.

3. *Discrimination on the ground of political opinion.* Further to its comments on the conclusions of the Commission of Inquiry, the Committee notes the Government's statement that, with regard to applicants for positions in the public service, loyalty to the Constitution must be checked in each individual case, and that activities for the Ministry of State Security or the Office for National Security of the former German Democratic Republic (GDR) can be grounds for considerable doubts about a candidate's loyalty to the Constitution or other suitability. The Government further indicates that checking must always be carried out on a case-by-case basis. The Committee notes the recent decisions from the Länder courts, which held that civil servants could not be dismissed merely because of past activities for the Ministry of State Security for the former GDR.

The courts held that, for a dismissal to be upheld, the individual's past involvement with the Ministry of State Security must have been of a serious nature. The Committee also notes from the decisions that the courts may be disinclined to uphold the dismissal where the individual worked merely as an informal agent, or where there was a long time interval between the past activities and the termination. The Committee notes that these decisions continue to be in accordance with the proportionality rationale proposed by the ILO Commission of Inquiry on the application of this Convention and this Committee on the application of Annex I of the Reunification Treaty. The Committee would be grateful if the Government would continue to provide information on any new court decisions involving terminations or failure to hire a candidate for the public service on the basis of his or her past political activities.

4. The Committee notes the Government's statement that the decision issued by the State Government of Mecklenburg-Vorpommern on 23 February 1999, concerning screening of candidates for civil service positions, could affect the implementation of the Convention's prohibition of discrimination on the ground of political opinion. The Committee notes that the scope of the posts to which the decision applies is quite broad. The decision provides that the possibility that an applicant may have worked officially or unofficially for the Ministry of State Security or the Office for National Security of the former GDR will be considered during the recruitment process, although due consideration must be given to the wider circumstances of a given case. The decision limits the inquiry to activities for the named institutions, which began on or after 31 December 1980, or which began before 31 December 1980, but continued after that date. The Committee notes from the decision that vetting of first-time candidates through the federal commissioner responsible for such matters, entailing an inquiry into past activities, will be carried out where there is concrete evidence of collaboration with the former GDR institutions mentioned, in the case of appointments to higher grades in the civil service, or appointments to sensitive areas, where the position in question imposes particular requirements of trust, or if the position in question is an especially important one. In the latter case, the inquiry need not be time restricted. The Committee asks the Government to provide information on the number of applicants refused employment on the basis of these screening guidelines, and the right of appeal available to the persons affected.

5. *Enforcement of equal opportunity provisions.* With respect to its previous comments, the Committee notes with interest the Act Amending the Civil Law Code and the Act on the Labour Court, which entered into force on 3 July 1998. The report reflects the fact that the Parliament took into account the verdict of the European Court of Justice of 22 April 1997 (Az. C-180-95) and modified the national legislation (in respect of section 611(a) of the Civil Code) to bring the provisions on compensation for damages into conformity with the European law. Noting the Committee's earlier concern over the limitations previously placed on damages, it asks the Government to provide information on the application in practice of the new legislation and its impact on eliminating discrimination in employment and promoting equality in employment and opportunity.

The Committee is addressing a request directly to the Government on other points.

Guatemala (ratification: 1960)

With reference to its previous comments, the Committee notes with satisfaction the promulgation of Decree No. 80-98 of 19 November 1998, repealing section 114 of the Civil Code, which provided that a husband could oppose his wife's employment, provided that his earnings were sufficient to maintain the household. It also notes the amendment of sections 109, 115, 131, 132 and 155 of the Civil Code, enshrining joint marital representation, the joint administration of the couple's assets and shared parental authority.

The Committee is addressing a direct request to the Government on other matters.

Guinea (ratification: 1960)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> 1. The Committee notes that the Government's brief report does no more than repeat the information given for a number of years. It therefore trusts that the Government will provide with the next report more detailed information on the progress made in bringing its national legislation into conformity with the 1990 Constitution and the Convention and that it will send copies of the codes, decrees, orders, decisions and collective agreements which are being prepared or revised once they have been adopted.
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> 2. With regard to the public service in particular, the Committee notes that the Government repeats its previous statement that the public service regulations are still being harmonized with the new Constitution and the Convention. The Committee reiterates the hope that the Government will take into account its previous comments concerning amendment of section 20 of the Ordinance of 5 March 1987 on the general principles of the public service (which excludes discrimination only the basis of philosophical or religious views and of sex) and the inclusion in the new revised regulations of all the grounds of discrimination set out in *Article 1, paragraph 1(a), of the Convention*. In this respect, the Committee draws the Government's attention to paragraph 58 of its 1988 General Survey on equality in employment and occupation which states that where provisions are adopted in order to give effect to the principle contained in the Convention, they should include *all* the grounds of discrimination laid down in *Article 1, paragraph 1(a)*, of the Convention.
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> [...]

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

The Committee is addressing a request directly to the Government on other points.

Hungary (ratification: 1961)

1. The Committee notes that, at its 275th Session (June 1999), the Governing Body approved the report of the committee designated to examine the representation submitted by the National Federation of Workers' Councils (NFWC) pursuant to article 24 of the ILO Constitution, alleging the Government's non-observance of the present Convention, and of the Employment Policy Convention, 1964 (No. 122). The Governing Body determined that there was insufficient information to permit it to reach any conclusions regarding the issues raised in the representation, including the NFWC's allegations that the Government's enactment of legislation reducing the personnel and social security-related budgets of institutes of higher education had resulted in the dismissal of a

disproportionate number of female lecturers and researchers, and it requested the Government to provide additional information on the issues raised in the representation, so that the Committee of Experts could continue to examine the matter.

2. The Committee notes the information provided by the Government in this respect. The Government states that institutions of higher education are independent and have the right of self-governance as concerns employment policy. This includes the institution's right to select its scientific researchers and leaders, as well as the right to make decisions regarding the financial instruments and resources allocated to the institution. In this connection, the Committee recalls the statement by the Governing Body in its report that "under Convention No. 111, the Government has the responsibility of ensuring that discrimination between men and women in employment does not occur" (GB.275/7/3, paragraph 42) (275th Session, June 1999). The Committee therefore requests the Government to indicate whether any measures have been taken or are contemplated to ensure that the exercise of the educational institutions' right of self-governance is carried out in conformity with the principle of non-discrimination.

3. With regard to the impact of the budgetary restrictions on the employment of civil servants employed in institutions of higher education, the Government indicates in its report that, during the period in question, 2,287 teaching staff and 4,311 non-teaching staff were dismissed. Of the total number of persons dismissed, 3,114 were men and 3,443 were women. The Government indicates that 35.6 per cent of the full-time teaching staff in the 1994/95 academic year were female, but that the larger part of those dismissed did not belong to the teaching staff. The Committee recalls that the Governing Body also concluded that "the imposition of a different retirement age on women, particularly where this distinction is used to force women into retirement earlier than the compulsory legal retirement age for their profession, would, if such a practice were verified, constitute discriminatory conduct that has a negative impact on women's access to employment and denies them equality of opportunity and treatment in employment and occupation" (GB.275/7/3, paragraph 43) (275th Session, June 1999). The Committee therefore requests the Government to indicate the number of female teaching staff dismissed during the relevant period, as well as the number of female non-teaching staff dismissed.

4. The Governing Body also requested the Government to provide information on any measures taken or contemplated to ensure that the civil servants dismissed have access to redress through the judicial process, the status of any claims filed and the outcome of those claims. The Government has indicated that the employees who were dismissed have the right to legal redress, but that it does not have details of litigated cases. The Committee expresses its hope that this information will be supplied with the next report.

5. The Government indicates that the Parliamentary Commissioner of Citizen's Rights (Ombudsman) has investigated cases involving certain of the employees in higher education institutions who were dismissed and, in his 1997-98 report, requested Parliament to investigate them. The Government indicates that the results of the investigation will be supplied later. Accordingly, the Committee would be grateful if the Government would supply information on the status of the Parliamentary investigation, including copies of the conclusions reached, once they become available.

6. The Committee is addressing a request directly to the Government on other points, in particular on the efforts being made to improve the situation of the Roma, whose situation in the labour market has been the subject of previous comments.

Islamic Republic of Iran (ratification: 1964)

1. The Committee takes note of the information provided by the Government in June 1999 during the discussion in the Conference Committee on the Application of Standards. The Committee welcomes the invitation from the Government for a technical advisory mission carried out by senior specialists in the Office for the purpose of discussing all the questions that have arisen in the application of the Convention. The Committee views this action positively as reflecting a willingness on the part of the Government to continue to engage in dialogue, and has examined with interest the detailed report of the mission, which took place from 29 October to 5 November 1999. It notes that the mission team held extensive discussions with representatives of many parts of Iranian society, including the representatives of workers' and employers' organizations, on the points raised in the Committee's previous comments. It further notes from the conclusions of the mission report the existence of national dialogue on many of these issues, and that there is an emerging commitment in the governmental structure towards removing all possible obstacles to the application of internationally recognized human rights. It further notes the emergence of national institutions set up to examine and promote human rights, including non-discrimination in employment.

2. *Mechanisms to promote human rights.* The Committee is pleased to note the expanded activities in the area of human rights, including the publication of articles in the country on ILO Conventions and its supervisory system, the holding of national seminars and the establishment of a human rights programme of study at the University of Tehran. The Committee notes with interest the establishment of the Supervisory Commission on the Implementation of the Constitution which has as one of its operational objectives the review of the interpretation of laws in accordance with international human rights instruments, including this Convention. The mission team was able to conduct a thorough dialogue with the chief of the Supervisory Commission on the Implementation of the Constitution, and to explore how it is carrying out its work. In addition, the Committee notes with interest the establishment and functioning of the Islamic Human Rights Commission which has authority to receive complaints from within and outside the country on violations of human rights under Islamic and international treaty law. The mission team also met with its President and some of its members. The Committee notes that the jurisdiction of the Commission covers discrimination or other matters related to employment in both the public and private sectors and that it has only advisory capacity to remedy violations. Noting that the Commission has had a few cases of gender and religious-based discrimination in employment and occupation, including a case filed by a member of a religion not recognized in the Islamic Republic of Iran, the Committee requests the Government to continue to supply information on the cases and activities of the Islamic Human Rights Commission. The Committee also requests the Government to provide information on the activities concerning discrimination, promotion of societal tolerance or international human rights undertaken by the other institutions mentioned above.

3. *Discrimination on the basis of sex.* The Committee notes the conclusions of the mission report that, while some limited legal restrictions remain on the employment of women, the Government is examining measures to remove the formal obstacles and is working to overcome the social obstacles which restrict women's participation in the economy. In its previous observation, the Committee had noted the increase in the participation of women in various sectors of wage and non-wage employment from 1991 to 1996. It had also noted that some progress had been made in education, but that female participation rates had remained very low in higher education at 4.3 per cent. The Committee notes from the mission report that women's education level continues to increase and that the mission was able to confirm that there are no longer any restrictions on areas of study for women. It also notes that approximately 10 per cent of the total population is in higher education, thus placing the 4.3 per cent into perspective. The Committee further notes that, according to the information provided to the mission team, there is a policy to increase the participation of girls in secondary and higher education levels. In this regard, it notes that, in 1998, 52 per cent of those who passed the national university entrance examination were female, marking a 13 per cent increase over the previous year; and, in 1999, this increased further to 57 per cent for women. In secondary schools, girls are 40.9 per cent of students. At the elementary level, over 90 per cent of girls are estimated to receive elementary education. Finally, the Committee notes that women constitute approximately 4,000 of the 21,000 members of the academic boards (teachers and professors). It requests the Government to continue to provide information in its reports on the rates of participation of girls and women in education in comparison with boys and men.

4. The Committee notes that, in spite of the progress marked, women's participation rate in the labour market remains low at an estimated 10 per cent. Several factors were provided to the mission team to explain this, including women's choice not to enter the labour market, the underestimation of women's participation, particularly in the rural areas, and male preference not to hire women. However, no formal restriction or barrier exists to women in employment and their pattern of labour market participation is expected to change as women are increasingly becoming more involved in social public life. Recent regulatory changes would appear to promote this tendency, with the increase in maternity leave for female employees from three to four months and the introduction of flexible working hours for women to facilitate work and family responsibilities. The Committee notes these developments with interest. It also notes that the National Plan of Action of 1997 remains relevant with its emphasis on increasing education levels, creating a better environment for the equal participation of women in the job market and facilitating women's access to credit, financial resources, banking and production facilities. A few projects appear to have been undertaken in accordance with these objectives in the Plan. The Committee requests the Government to continue to provide information on the measures taken to eliminate preferences for men in the workplace and to promote and support women's ability to participate in the labour market with men, including their attainment of high-level and decision-making posts. Noting that no new statistical data at the national level is available since the 1996 census, but that the Centre for Women's Participation is undertaking a more in-depth analysis of the 1996 labour market data, it requests the Government to supply a copy of that analysis to the Office once it is completed. It also requests the Government to supply statistics that are available in the Ministry of Industry on the private sector employment

participation rates disaggregated by sex; and the statistics available in the various Ministries for public sector participation rates.

5. The Committee notes the detailed information provided by the Government on the number of women in the judiciary and the various positions held by them including appellate court counsellors, provincial deputy Attorneys General, deputies in judicial assemblies, judicial counsellors and judges for investigation and enforcement. The Committee recalls that it has previously raised concerns not only over the participation rate of women, but also over the formal restriction precluding women from having the authority to render verdicts. The Committee notes that, while their judicial capacity remains influential, it is only advisory, and they are still not allowed to issue judicial decisions. It also notes with interest from the mission report that the formal restriction on women from rendering verdicts is now under review by the council of mullahs. The Committee hopes that the review will result in the removal of the restriction so as to allow women to participate on an equal footing with men in the judicial profession in accordance with the provisions of the Convention.

6. Further to its previous comments on the obligatory dress code and the imposition of sanctions in accordance with the Act on Administrative Infringements for violation of the Code, the Committee notes from the information gathered during the mission that any infringements are dealt with through the use of notification procedures. The Committee further notes the indication that there has never been a case of dismissal and that persistent violations of the dress code would result in escalated disciplinary procedures, but would not reach the level of dismissal. Moreover, public servants have the right of appeal and can subsequently seek relief from the Supreme Court for imposition of disciplinary action. The Committee notes this information and once again requests the Government to supply a complete copy of the Act on Administrative Infringements with its next report.

7. The Committee has previously requested information on the application of section 1117 of the Civil Code under which a husband may bring a court action to object to his wife taking up a profession or job contrary to the interests of the family or to his or his wife's prestige, and the provision under the 1975 Protection of Family Act which extends to wives as well as husbands the same right to object to the spouse's employment. The Committee notes from the information gathered by the mission that, while it is not a common practice, limited use has been made of this Civil Code provision. Noting that a review of laws is taking place with a view to altering provisions which are considered to disadvantage women, the Committee hopes that the Government will review section 1117 of the Civil Code, and either remove the husband's right to object to his wife's job or grant the wife the equivalent right of objection.

8. *Discrimination on the basis of religion.* The Committee recalls its previous conclusion that the recognized religious minorities (Christians, Jews, Zoroastrians) have been able to make progress in the labour market, and that the employment situation of members of these religious minorities was better than the national average. The Committee had continued to request information on the education and employment situation of members of the recognized minorities and on the measures taken to prohibit discrimination on the grounds of religion. The Committee notes that the mission team was able to meet with representatives of the recognized minorities and to confirm that members of each of these groups continue to have high levels of education and

participation in employment. Nevertheless, it also notes from the mission report that, in practice, due to societal attitudes, Muslims may be given preference by employers over members of recognized minorities in some areas of employment. In this regard, the Committee notes with interest the importance of the representation of the recognized religions in Parliament, the expanding informal methods of discussion with Government officials on issues of importance to the religious minorities, including perceived job discrimination, and the holding of seminars on religious minorities in the country. The Committee hopes that measures will continue to be taken to promote non-discrimination on grounds of religion, and it requests the Government to continue to be vigilant in prohibiting the use of job advertisements to restrict applicants to a specified religious group. It would be grateful if the Government would continue to provide statistical information on the participation rates of recognized minority men and women in the labour market, as well as information on the measures taken to foster tolerance in the society of all religious groups and to eliminate discrimination in employment and occupation.

9. The Committee for many years now has been expressing its concern over the treatment in education and employment of members of the unrecognized religions, in particular the members of the Baha'i faith. The Committee notes from the mission report that the sensitivity of the subject of the Baha'i in the country goes beyond any formal restrictions and exclusions which may exist, and extends to the societal attitude towards members of this group. In the public sector, the Committee notes that formal restrictions on the hiring of the members of the Baha'i do exist (and such restrictions do not appear to exist for the recognized religious minorities). No statistics could be produced indicating the number of members of the Baha'i (or any other unrecognized religion) in the public service, nor was there any record of complaints filed on the grounds of religious discrimination. The mission report indicates that there remains an apparently widespread conviction among the people of the country that all members of the Baha'i work against the interest of the Islamic Republic of Iran, and thus may not be trusted at any level of government. At the same time, the Committee notes that there appears to be an effort to remove barriers in regulations and directives with respect to unrecognized groups and to promote greater tolerance for them, but that this process was expected to take some time, and that opinions remained divided on it. In the private sector, the Committee notes that no formal restrictions on the hiring of members of unrecognized religions, including the Baha'i, appear to exist, but in practice these persons may experience difficulty in access to education, jobs and occupations. The Committee notes with interest the reported elimination of discrimination against Baha'i youth in enrolment in the pre-university year at the high school level, while remaining concerned that their entry to universities continues to be refused and that the Open Baha'i University, a correspondence school, was closed down. The Committee requests the Government to make every effort to work towards the elimination of both formal and de facto discrimination against the members of the non-recognized religious groups in education and employment in accordance with the requirements of the Convention.

10. *Tripartite consultation.* The Committee notes from the mission report that the first tripartite consultation on social and labour matters has recently been held. The Committee recalls that the provisions of the Convention require the policy of non-discrimination and promotion of equality to be implemented in cooperation with the social partners. Taking note of the interest and involvement of the social partners during

the mission, the Committee would be grateful if the Government would provide information on their involvement in the promotion of the application of the Convention.

11. The Committee welcomes the undertaking of activities to follow up the mission on the application of the Convention, including plans to hold a national tripartite seminar on fundamental labour rights and principles, including discrimination, and the participation of the Office in a human rights technical cooperation and education programme in collaboration with the Islamic Commission on Human Rights and the United Nations Office of the High Commissioner for Human Rights. The Committee encourages the continued collaboration between the Office and the Government with a view towards promoting the full application of the Convention.

Iraq (ratification: 1959)

The Committee notes the Government's report.

1. With reference to its earlier comments, the Committee notes that, since 1992, it has drawn the Government's attention to its obligation under *Article 2 of the Convention*, noting that the Government's previous reports merely cite the provisions of the Iraqi Constitution and national legislation that express the guarantee of equality in employment for all citizens without discrimination on specified grounds in accordance with the Convention. The Committee has pointed out over the years that, under *Article 2*, the Government "undertakes to declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof". As the Committee noted in its 1988 General Survey on equality in employment and occupation, affirmation of the principle of equality before the law may be an element of such a national policy, but it cannot in itself constitute a policy within the meaning of *Article 2*. Such a policy must: (1) be clearly stated, which implies the establishment of programmes set up for the purpose of promoting the policy; and (2) be applied, which implies the Government's implementation of appropriate measures pursuant to *Article 3* of the Convention (see General Survey, paragraphs 158 and 159). The Committee notes that the Government's report once again contains no concrete information in response to its earlier comments relating to the application of *Article 2*. It is therefore compelled once again to request the Government to specify the measures taken to implement the legislation.

2. In its previous comments, the Committee had requested information on the application of *Article 2* in regard to Iraqi citizens belonging to the country's ethnic, religious and linguistic minorities, particularly the Kurdish and Turkoman minorities. It recalls that, in 1993, the Conference Committee on the Application of Standards had expressed deep concern over the situation of these minorities, asking the Government to provide information on their practical situation and on the manner in which these minorities are guaranteed equality of opportunity and treatment. The Committee regrets that, since that time, the Government has not sent sufficiently specific information permitting the Committee to form an opinion in this regard. The Committee also notes the concluding observations of the Human Rights Committee (61st Session, November 1997), which expressed concern regarding the situation of members of religious and ethnic minorities, particularly the Shi'ite people in the southern marshes and the Kurds (CCPR/C/79/Add.84, page 5, paragraph 20). Further, it notes that the United Nations

Commission on Human Rights (54th Session, April 1998) calls on Iraq to cease immediately repressive practices aimed at Iraqi Kurds, Assyrians, Shi'a, Turkmen, the population of the southern marsh areas, and other ethnic and religious groups (E/CN.4/1998/L.85, pages 3-4, paragraph 3(h)).

3. The Committee notes once again that, in its most recent report, the Government cites the Kurdistan Self-Rule Act No. 33 of 1974 in the context of national legislative texts expressing the principle of equality for all citizens without providing information on the manner in which these provisions are applied in practice. The Self-Rule Act only refers to workers' protection in relation to the Assembly's power to designate self-rule administration officers, stipulating that these should be Kurds or members of the other minorities (section 115). The Committee therefore reiterates its request that the Government provide concrete and specific information on any policies, programmes or measures taken to ensure the application of the principle of non-discrimination to the Kurdish and Turkoman peoples as well as to the Shi'a and Assyrian minorities. It further requests information on the position of minorities in the labour market, their access to employment and occupations, job security and terms and conditions of work.

4. The Committee notes the Government's statement, in response to its earlier comments, that Decision No. 76 of 1993, suspending the application of Resolution No. 480 of 1989, remains in force. The Committee nevertheless recalls that Decision No. 76 expressly provides that Resolution No. 480 is suspended pending the promulgation of a subsequent resolution which will either repeal or reinstate Resolution No. 480. Accordingly, the Committee requests the Government to keep it informed with regard to any action taken concerning this resolution, which prohibits women in the state administration and in the socialist and mixed sectors from working in certain occupations.

5. The Committee once again requests the Government to supply statistics reflecting the number of women occupying posts of responsibility in the public sector in proportion to men, and their classifications. It also reiterates its request that the Government indicate whether it has implemented or contemplates implementing programmes designed to promote the employment of women, including employment in non-traditional occupations, and to provide information on the progress achieved in this regard.

Latvia (ratification: 1992)

In examining the Government's report on the application of the Convention, the Committee has noted that a State Language Act was adopted in July 1999, but has not been promulgated. The Committee expresses concern that this Act, if it enters into force, might have a discriminatory effect on the employment or work of the large Russian-speaking minority in the country.

The Committee is addressing a request directly to the Government on this and other questions, and requests the Government to provide detailed information on this point.

Libyan Arab Jamahiriya (ratification: 1961)

The Committee notes that the information included in the Government's report does not respond to any of the points raised in its previous comment and that the Government has merely supplied general information, most of which has previously been provided to the Committee. The Committee is therefore compelled to reiterate its earlier observation which read as follows:

> 1. The Committee notes that in response to its repeated requests for information on how Act No. 20 of 1991 on the promotion of freedom ensures that the principle of non-discrimination in employment and occupation laid down in the Convention is applied in practice, the Government merely states, in its brief report, that during the period in question there were no complaints or legal proceedings concerning discrimination in employment and occupation because there is no such discrimination. The Committee is obliged to repeat the comments it made in its previous direct request, namely that it is difficult to accept statements to the effect that the application of the Convention gives rise to no difficulties, when no other details are given on the contents and methods of implementing the national policy on the promotion of equal opportunity and treatment (see paragraph 240 of the 1988 General Survey on equality in employment and occupation). Furthermore, as the Committee pointed out in paragraph 165 of its 1996 Special Survey on equality in employment and occupation, within the meaning of the Convention anti-discrimination provisions alone – whether in Constitutions or other legislation – are not enough to implement effectively the principles of equality of opportunity and treatment. There must also be a genuine policy to *promote* equality of opportunity and treatment in employment. Consequently, the Committee again asks the Government to provide detailed information on the practical effect given to Act No. 20 of 1991 which, according to the Government, is the basis of the national policy to combat all discrimination on the seven grounds set out by the Convention in *Article 1, paragraph 1(a)*. Please indicate, for example, how the education and information of the public on the national policy to combat discrimination are ensured or encouraged; and the measures taken to obtain the cooperation of employers' and workers' organizations in promoting the acceptance and implementation of the Act.
>
> 2. The Committee notes the information supplied by the Government in its report to the Committee on the Elimination of Discrimination Against Women (United Nations document A/49/38 of 12 April 1994) and that Committee's observations on the report, to the effect that it was not possible to speak of equal rights of women and yet to maintain sexual stereotypes by insisting on the role of women as housekeepers. The Committee again asks the Government to provide information on the training provided for women. It would be grateful if the Government would indicate, in particular, whether through training women have access to all types of work and sectors of production, and not only those corresponding to the traditional stereotypes of "women's work".
>
> 3. The Committee notes that the Government's report contains no reply to the other points raised in its previous comments, and urges the Government to ensure that its next report provides detailed answers to the following questions:
>
> (a) What measures have been taken to give effect to Decision No. 164 of 1988 of the People's General Committee concerning the system of employment of Libyan women and Act No. 8 of 1989 concerning the right of women to have access to the magistrature?
>
> (b) With regard to each of the seven grounds of discrimination prohibited by the Convention, and particularly sex, how is non-discrimination ensured both in access to the public service and during the course of a career in the public service?
>
> (c) Please provide copies of reports which illustrate the implementation of the principle of equality of opportunity and treatment between men and women with regard to access

> to employment and terms and conditions of employment in both the public and private sectors.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Lithuania (ratification: 1994)

The Committee notes the information provided in the Government's report.

The Committee notes with interest the adoption of Act No. VIII-947 of 1 December 1998 on equality of opportunities between men and women, which entered into force on 1 March 1999 with the aim of ensuring enforcement of equality of rights between women and men in access to employment, remuneration and employment conditions, including the prevention of sexual harassment. It also notes that this Act establishes the post of an ombudsman responsible for monitoring the application of the Act, and also the principle of equality between men and women. The Committee is addressing a request regarding other questions concerning the practical application of this Act directly to the Government.

Mauritania (ratification: 1963)

The Committee takes note of the Government's report, which is identical to the previous report, for the period ending 1 September 1997. It therefore feels compelled to reiterate its previous observation, which read as follows:

> The Committee recalls that it is ensuring the follow-up to the recommendations made in 1991 by the Committee established to examine the representation made by the National Confederation of Workers of Senegal (CNTS), under article 24 of the ILO Constitution, alleging failure to apply the Convention, in particular to black Mauritanian workers of Senegalese origin whose employment was adversely affected following the conflict with Senegal in 1989. The Committee is therefore monitoring whether appropriate measures are implemented to compensate for the harm done to the Mauritanian nationals who were subjected to discrimination, by reintegrating such persons into their employment and re-establishing their rights in this area. The Committee is also kept informed of the progress made in the implementation of the decisions adopted in 1993 by the Joint Mauritanian-Senegalese Committee in respect of retirement pensions and wage arrears. The Committee notes with interest that a number of the workers affected by the events of 1989 have recovered their rights in respect of retirement pensions. Since the Government has not replied to the other points raised in its previous observation, the Committee reiterates that it would like the Government to provide: (a) statistics on the number of workers, in particular public servants and state employees, who have been reinstated in their jobs as part of the government programme for the occupational reintegration of the workers who fell victim to the events of 1989; (b) information on any payments of wage arrears made to these workers; and (c) information on the administrative and legal appeals lodged by workers who consider that they suffered prejudice in these areas and, where appropriate, copies of the decisions taken.

The Committee is addressing a direct request to the Government on other points.

Mexico (ratification: 1961)

1. The Committee notes the information contained in the Government's report. In previous requests, the Committee had noted information regarding a series of

discriminatory employment practices against women in the export processing zone industry (maquiladoras), such as subjecting women seeking employment to pregnancy tests and other discriminatory practices as a condition to obtaining employment. It had requested the Government to investigate these allegations and, where necessary, take action to end these practices. The Committee notes the information provided by the Government on general measures, but observes that the Government's report contains no information on definite measures adopted or envisaged to investigate, penalize or eradicate such practices, which are in violation of sections 133 and 146 of the Federal Labour Code.

2. The Committee notes the Government's statement that measures to combat the alleged discriminatory employment practices against women in export processing zones were agreed upon in the framework of the North American Agreement on Labour Cooperation (NAALC) and were developed in a ministerial meeting in November 1998, in a seminar held in August 1999 on "Employment Rights and the Protection of Women Workers in Mexico" and in the Trinational Conference on "The Rights of Women Workers in North America: Protection of Women at the Workplace" in March 1999. The Committee also notes that within the Action Plan "More and Better Jobs for Women in Mexico", there is a pilot project on export processing enterprises in the State of Coahuila and that the extension of the action plan to the rest of the frontier States is programmed. These activities will no doubt contribute to ensuring greater equality between men and women at work. The Government reports that as a result of meetings held in 1997 with counsellors and representatives of the National Council of Associations of Export Processing Zones and the National Council of the Export Processing Industry, 809 labour inspections were undertaken, covering 138,712 women workers, of which 3,414 were pregnant and 484 nursing. The Committee observes that these results refer to women who were *already in employment and not to women at the time of their recruitment*.

3. The Committee nonetheless observes that discriminatory practices against women workers in export processing zones continue to occur. For example, women are required to provide urine samples and, during the probationary period, provide proof to the enterprise of the continuation of their menstrual cycles. According to the concluding observations of the United Nations Committee on Human Rights, of 27 July 1999 (CCPR/C/79/Add.109, paragraph 17), information regarding the pregnancy test requirement in export processing zones continues to be received, and no investigation has been carried out in respect of the allegations; and according to the report of the Inter-American Commission on Human Rights (OEA/Ser.L/V/II.100) of September 1998, export processing zones impose pregnancy tests on women as a condition of employment and deny them work if the result is positive. In some cases, if a woman becomes pregnant shortly after she begins to work in the plant, she may be mistreated and forced to leave her job for that reason (paragraph 633).

4. The Committee reiterates that these practices constitute discrimination based on sex in respect of access to employment and are both offensive and contrary to human dignity. As it states in paragraph 82 (access to wage employment) of its 1996 Special Survey on equality in employment and occupation, the application of the principle of equality of opportunity and treatment guarantees that every person has the right to have his or her application for a chosen job considered equitably, without discrimination based on any of the grounds referred to in the Convention. The recruitment procedure is

of considerable importance for the effective application of this right. Similarly, paragraph 76 of the General Survey on equality in employment and occupation, 1988, establishes that the protection provided for in the Convention is not only applicable to the treatment accorded to a person who has already gained access to employment or to an occupation, but is extended expressly to the possibilities of gaining access to employment or to the occupation.

5. The Committee trusts that the Government will take appropriate measures to investigate and eliminate such discriminatory practices and thus bring their legislation and practice into conformity with the Convention; these measures could include, for example, sending a clear message to employers and workers to the effect that all action taken with a view to requiring women to undergo pregnancy tests constitutes discrimination based on sex; taking measures to penalize employers who persist in imposing such discriminatory practices; establishing of effective mechanisms of prevention, complaint, investigation and compensation where appropriate and, to this end, strengthening the labour inspection services and involving the bodies specialized in promotion and prevention, application and monitoring of the principle of the Convention.

6. The Committee requests the Government to keep it informed on the measures adopted and progress attained in the elimination of such discriminatory practices.

7. The Committee is addressing a request on certain points directly to the Government.

Mozambique (ratification: 1977)

1. The Committee notes the enactment of the new Labour Act (Act No. 8/98 of 20 July 1998, the "1998 Act"). It notes with interest that section 15 of the 1998 Act prohibits discrimination in the workplace on the basis of ethnic origin, language, race, sex, civil status, age (within the limits established by national legislation), social status, religious or political beliefs and union membership, and that it establishes sexual harassment in the workplace as a disciplinary offence.

2. With respect to its previous comments, the Committee recalls the Government's earlier statements that economic difficulties experienced in the country have hindered the gathering of information requested by the Committee concerning positive measures to promote equality of opportunity and treatment for women in respect of their access to employment and vocational training. The Committee again expresses its hope that the Government will request the secretariat of the tripartite labour advisory commission established in 1994 to collect information on such measures. Further, the Committee recalls the Government's statement to the ILO multidisciplinary team in August 1997 concerning the need to restructure the existing system for gathering statistical data. The Committee notes that labour statistics are an essential tool in evaluating the progress achieved in the application of the national policy for the elimination of discrimination. In this connection, the Committee once again reminds the Government that the Office remains available to provide technical assistance.

3. The Committee is addressing a request directly to the Government on other points.

Nepal (ratification: 1974)

1. In its previous observations, the Committee regretted that certain provisions in the Civil Service Act, 1993 (section 61), the Municipality (Working Arrangements) Regulations, 1993, and the Village Development Committee (Working Procedures Rules), 1994, permitted discrimination in employment on the basis of political opinion by providing that civil employees may be removed or dismissed from service for participating in partisan politics. The Committee had pointed out that although it may be admissible for the responsible authorities to bear in mind the political opinions of individuals in the case of certain higher-level posts which are concerned directly with implementing government policy, it is not compatible with the Convention for such conditions to be laid down for all kinds of employment in general. It had urged the Government to take steps without delay to bring all relevant legislation into line with the Convention. The Committee notes the Government's statement that it has forwarded the Committee's observations to the concerned government agencies for their opinions, as they are the competent authority in this regard. The Committee hopes that the Government will urge the authorities concerned to look into this issue as a matter of urgency and requests the Government to supply detailed information in its next report on the measures taken to bring the relevant legislation into line with the Convention.

2. In its previous observation, the Committee had requested clarification from the Government on how the term "moral turpitude" is defined under the criminal legislation. This term is referred to in sections 10 (those found guilty by a court of any criminal offence involving "moral turpitude" cannot be appointed to any post of the civil service) and 61(2) ("moral turpitude" constitutes grounds for removal or dismissal from service and disqualification from government service in the future) of the 1993 Civil Service Act. The Government replies that the term has not yet been defined in any particular legislation, but that in practice, "moral turpitude" includes corruption, unacceptable activities, drug abuse, rape, robbery and other criminal activities. While noting the Government's explanation, the Committee would be grateful for further clarification on what constitutes "unacceptable activities and other criminal activities" which could constitute grounds for non-appointment, removal or dismissal from service of civil employees. It also requests the Government to provide concrete examples of any cases of the non-appointment of a candidate or dismissal of a civil servant on the basis of a conviction of "unacceptable activities or other criminal activities". Moreover, the Committee obtained information regarding a complaint, dated 27 July 1998, submitted to UNESCO by the Nepal National Teachers' Association, Central Committee, alleging the murder of 11 teachers and the arrest of 15 others in the context of police action aimed at suppressing Maoist activities. The Committee notes this information with concern and requests the Government to provide in its next report information on whether any teachers arrested are under threat of being removed or dismissed from service and the basis for any such disciplinary action, if taken.

3. The Committee is raising other points regarding the application of the Convention in a request addressed directly to the Government.

Netherlands (ratification: 1973)

1. The Committee notes with interest the amendment of the Equal Treatment Act on Men and Women, in particular its section 12(b) which prohibits discrimination

between men and women as regards the categories of persons eligible for pension benefits and the implementation of pension schemes. The Committee further notes that section 646 of Chapter 7 of the Civil Code has been amended accordingly and prohibits employers from discriminating between men and women as regards entering into employment contracts, training, terms and conditions of employment, promotion, and termination of employment contracts. It also notes that, according to section 12(b)(2) of the above Act, provisions which stipulate the interruption of pension entitlements during the period of maternity leave are, pursuant to section 7/646 of the Civil Code, in contravention of the prohibition of unequal treatment of men and women. The Committee looks forward to receiving information on the implementation of the amended legislation.

2. The Committee is raising other points on the application of the Convention in a request directly addressed to the Government.

New Zealand (ratification: 1983)

1. The Committee notes the detailed information provided by the Government in its report and the attached documentation. It also notes the comments submitted by the New Zealand Employers' Federation (NZEF) and the New Zealand Council of Trade Unions (NZCTU) and the Government's reply.

2. The Committee notes with interest the Government's statement that, as of 1 February 1999, section 21(1)(ii) of the Human Rights Act of 1993 came into effect, abolishing compulsory retirement and prohibiting, with some exemptions, discrimination against employees and job applicants on the basis of age. It further notes the adoption of the Human Rights Amendment Act of 1999 (which entered into force on 1 October 1999), and in particular that section 152 defers the expiry date of section 151 (which provided temporary exemption for government compliance with the prohibition of discrimination on a number of grounds, including political opinion) to 31 December 2001. The Act further requires, in consultation with the Human Rights Commission, the submission of six-monthly ministerial reports on the progress made by or on behalf of the Government in remedying significant inconsistencies between any legislation and the Act of 1993. The Committee notes, however, that the 1999 Act exempts section 151 from being subject to such an assessment. The NZCTU expresses its concern about the extension of this expiry date as well as the Government's decision in 1997 to consider conflicts as legislation arose. The Government replies that, due to the extensiveness of the "Consistency 2000 Project" (carried out by the Human Rights Commission, pursuant to section 5(1)(i) to (k) of the Human Rights Act of 1993, to examine inconsistencies between the new grounds of discrimination in Part II of the Act and the existing legislation, and policies and administrative practices of the Government), an extension of the deadline for compliance was necessary to deal with issues arising from inconsistencies found. Further, according to the Government, a number of mechanisms have been put into place to continue the process of review, including consideration of conflicts with the Human Rights Act as legislation comes up for review as well as mechanisms to ensure that existing regulations are assessed for consistency. While noting the mechanisms instituted by the Government, the Committee recalls that it has, for some years, been encouraging the Government to include the ground of political opinion as a proscribed ground of discrimination. It draws the attention of the

Government once again to paragraph 60 of the 1988 General Survey on equality of employment and occupation, where it stated that one of the essential traits of this type of discrimination is that it is most likely to be due to measures taken by the State or the public authorities. Noting the exemption of section 151 from the ministerial reports, the Committee requests the Government to provide further information on what protection and avenues are afforded to persons who consider themselves to be subject to discrimination in employment on one or more of the exempted grounds, in particular political opinion, until the end of the year 2001. Further, in this connection, the Committee notes the recommendations made in the "Report to the Minister of Justice pursuant to section 5(1)(k) of the Human Rights Act 1993", produced by the Human Rights Commission in December 1998, and requests the Government to provide information in its next report on the follow-up to these recommendations.

3. The Committee notes the continuing efforts by the Government to promote equality of opportunity and treatment in employment and occupation in the public sector, and encourages the Government to continue to provide such information in future reports. The Committee notes that a Gender Integration Audit of the New Zealand Defence Force in 1997-98 has been carried out and requests the Government to provide a copy of the Audit Report and to provide information on the follow-up taken by the New Zealand Defence Force to implement its recommendations.

4. As regards the promotion of equal opportunity and treatment in the private sector, the Committee notes that the statistics provided by the Government show a significant imbalance in the representation of women in industry training and indicate that, although women are generally well represented in tertiary education, they continue to be over-represented in certain fields of education. The Committee notes with interest that the women's unemployment rate has decreased and is now lower than that of men, and that there is a further increase in women's participation in the legislators, administrators and managers category between March 1997 and March 1999. The Committee also notes that men continue to be over-represented in this category, whereas women only constitute 35 per cent of the higher-level executive and manager posts. Women also continue to be over-represented in professional and clerical occupations as well as in the category of sales and service workers, whereas men continue to be over-represented in the transport, storage and communications industry and in the building and construction industries.

5. As concerns the promotion of equality of ethnic minorities, in particular the Maori, the Committee notes the report produced in 1998 by the Ministry of Maori Development, according to which disparities in Maori and non-Maori labour force participation have widened due to a number of social and economic gaps, including lower participation in training and tertiary institutions and lower-level qualifications. While noting with interest that the unemployment rate for Maori women has decreased from 19.6 per cent in 1998 to 16.8 per cent in 1999, the Committee also notes that the unemployment rate for Maori men has substantially increased over the past year from 16.9 per cent in 1998 to 20.9 per cent in 1999. Further, the Committee notes that figures provided by the Government for 1998-99 continue to show that the Maori and Pacific Island labour force is disproportionally distributed toward certain categories of low-paid and low-skilled jobs.

6. In its comments, the NZCTU refers to the abovementioned ministerial report and states that, while recognizing the importance of this report, the NZCTU does not consider the establishment of a ministry to document indicators of discrimination to equate with action to eliminate discrimination. The NZCTU further expresses its concern that no comprehensive approach has been created to respond to the continuing disturbing trend of over-representation of women and minority groups in low-paid, part-time or casual jobs. The Government expresses its disagreements with the NZCTU's statement and refers to a number of measures undertaken to promote equality of opportunity and treatment for women and ethnic minorities in employment and occupation. The Government also states that the Ministry of Maori Development has an important role in monitoring the status of the Maori. While noting this information, the Committee observes, nevertheless, that despite the various measures taken, there is no assurance that the gaps between the Maori and non-Maori are closing or that there is a significant change in the educational and employment opportunities for women and ethnic minorities. The Committee, therefore, can only reiterate its hope that the Government, in cooperation with the NZCTU and the NZEF, will remain attached to its commitment to promote greater equality in the labour market by taking a comprehensive approach to the matter, and to take the necessary steps to enhance access of women and ethnic minorities to non-traditional fields of education and to increase their occupational choices and encourage upward mobility.

7. The Committee notes the NZCTU's statements that the Government has made no arrangement to alter the operation of the Equal Employment Opportunities (EEO) Contestable Fund and the joint Equal Employment Opportunity (EEO) Trust which remain bipartite between employers and the Government, and that no unions have been involved in the process of selecting recipients of funding. The Government replies that it does not accept the above claims made by the NZCTU and that any organization is eligible for funding under the EEO Trust and EEO Contestable Fund. It states that a range of organizations have received funding from the EEO Fund, as demonstrated by the initiatives described in the Government's report.

8. In its previous observation, the Committee had requested the Government to provide an assessment concerning the extent to which individual employment contracts in the private sector contain EEO provisions. In this connection, the NZCTU states that no efforts have been made by the Government to collect or submit comprehensive data on the incidence of EEO provisions in the private sector. The NZEF, on the other hand, describes a number of initiatives to increase educational opportunities for women and ethnic minorities and states that the concept of EEO is inherent in any private sector contract entered into, individual or collective. Consequently, according to the NZEF, the presence in an employment contract of EEO provisions would not achieve any more than does equality legislation and their absence is no indication of non-compliance. The Government replies that there is currently little information available as to the extent to which EEO provisions are included in individual employment contracts. Noting that the statistics provided by the Government in its report on EEO and work and family provisions in employment contracts do not distinguish between collective and individual contracts, the Committee hopes that the Government will take the necessary steps to collect data that would provide a more complete picture of the extent to which EEO provisions have been expressly included in individual employment contracts in the private sector. Further, the Committee requests the Government to provide information

on the various activities undertaken, in cooperation with the NZEF and the NZCTU, which indicate the progress made in the application of the Convention and of the national legislation on equality in the private sector.

9. In reference to its previous comments concerning avenues for redress based on those grounds of discrimination proscribed by the Human Rights Act of 1993, but which are not contained in section 28 of the Employment Contract Act of 1991, the Committee notes the decisions supplied and requests the Government to continue to supply examples of cases pertinent to the Convention and, in particular, those related to grounds of discrimination not covered by the Employment Contract Act of 1991.

Pakistan (ratification: 1961)

1. The All Pakistan Federation of Trade Unions (APFTU) has communicated two information documents to the Committee. The first information was contained in a communication dated 25 June 1999 and alleged the violation by the Government of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), following the adoption of Ordinances Nos. V/1999, VI/1999, VIII/1999, IX/1999 and X/1999 amending the legislation governing enterprises which supply water and electricity. With regard to the alleged violation of Convention No. 111, the APFTU does not indicate the grounds of discrimination prohibited by the Convention (race, colour, sex, religion, political opinion, national extraction or social origin) which are violated by the above Ordinances. The Committee is not therefore able to take a position on the matter and requests the APFTU to provide additional information so that it can examine the above allegations. The second set of information is contained in a communication dated 23 July 1999 and alleges the violation of numerous Conventions, including the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), and the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144). According to the APFTU, although it has ratified Convention No. 144 which advocates tripartite consultations on, among other matters, the ILO Conventions ratified by a member State, the Government has not held consultations with employers' and workers' organizations to facilitate the declaration and pursuance of a national policy to promote equality of opportunity and treatment in respect of employment and occupation, as envisaged by Convention No. 111. The APFTU also emphasizes the failure to establish a formal tripartite consultation procedure, as required by Convention No. 144. On this latter point, please refer to the Committee's comments under Convention No. 144. The Committee invites the Government to reply to the APFTU's allegations concerning the application of Convention No. 111.

2. *Discrimination on the basis of religion.* In its previous comments, the Committee hoped that the Government would review section 295C of the Penal Code, or the "Blasphemy Law", which provides that anyone guilty of defiling the name of the Prophet Mohammed could be subjected to the death penalty, and sections 298B and 298C of the Penal Code, which establish sentences of imprisonment for up to three years for any members of the *Quadiani, Lahori* and *Ahmadi* religious groups who, inter alia, preach or propagate their faith, whether by spoken or written words, or by visible representation. It also requested the Government to reconsider its position with regard to

the declaration required to obtain passports, to the effect that the founder of the Ahmadi movement was a liar and an impostor, which is designed to prevent non-Muslims from obtaining passports which identify them as Muslims. In its report, the Government once again repeats that the fundamental rights enshrined in the Constitution and particularly in articles 20, 27 and 36 on religious freedom and the prohibition of any discrimination based on religion, apply to all the citizens of Pakistan, including religious minorities. The Government states that the blasphemy laws are not discriminatory, since they apply to the whole of the population, and not only to certain groups, and they protect all religions, not only Islam. With regard to the declaration to be signed to obtain Muslim passports, the Government also repeats the same arguments which it put forward previously, namely that under article 60(3)(b) of the Constitution, Ahmadis/Quadianis are not Muslims and that they violate the Constitution when they declare themselves to be Muslims on the application form for passports. Finally, in more general terms, it explains that the legislation criticized by the Committee does not affect the access to employment, training or conditions of employment of Ahmadis/Quadianis and that it therefore has no bearing on the application of the Convention.

3. The Committee is therefore bound to express its concern once again that the enjoyment of equality of opportunity and treatment in respect of education and employment for certain religious minorities is necessarily impaired by the application of the measures referred to above. In this respect, it is bound to regret the fact that the Government has not provided statistical data on the professional situation of the various religious minorities, including the Ahmadis, with particular regard to their access to employment and their conditions of employment. As it emphasized in its previous comment, the Committee recalls that this point of view is also shared by the Special Rapporteur to the United Nations Commission on Human Rights and by the Human Rights Commission of Pakistan (E/CN.4/1995/91, 22 December 1994). For this reason, it once again hopes that the Government will reconsider its position with regard to sections 295C, 298B and 298C of the Penal Code and the declaration required to obtain passports. The Committee also hopes that the Government will provide detailed information on the measures taken to guarantee *in practice* non-discrimination on the basis of religion for all aspects of employment (that is access to vocational training, employment and the various occupations, as well as terms and conditions of employment). Finally, the Committee notes the report presented by the Government in 1996 to the Committee on the Elimination of Racial Discrimination (CERD/C/299/Add.6) and welcomes the many institutions which have been established (Minorities Affairs Division, National Commission for Minorities, Federal Advisory Council for Minorities Affairs, District Minorities Committees, National Committee on the Kalash People, etc.) to promote and protect minority rights. The Committee notes that the Government has not provided information on the strategy implemented by the Minorities Affairs Division of the Federal Government or on the work of the National Commission for Minorities, and it once again requests information on these points. The Committee also notes that the project on the development and strengthening of governmental and non-governmental institutional capacity for the promotion of human rights, implemented by the ILO, commenced in June 1999. It requests the Government to keep it regularly informed of the implementation of the various stages of the project, and the results obtained.

4. *Discrimination on the basis of sex.* In its previous comment, the Committee noted the fact that, according to the report of the Commission of Inquiry for Women published in August 1997, the illiteracy rate for women was 80 per cent in 1990. It notes the Government's statement that there is no discrimination in education or vocational training on the basis of any of the seven grounds of discrimination prohibited by the Convention, including sex. The Committee welcomes the many initiatives taken by the Government to raise the educational level of women, such as: universal compulsory primary education for girls and boys of 5 to 9 years of age; the efforts made by the Government to increase the enrolment of girls, particularly in rural areas; awareness campaigns to combat illiteracy; the increase in the numbers of public education institutions, as well as private institutions, through financial incentives; the increase in the number of teachers, and particularly women teachers; etc. The Committee would be grateful if the Government would provide information on the impact of these various initiatives on the illiteracy rate of women.

5. The Committee notes that there are a very large number of public and private institutions, at both the federal and provincial levels, providing vocational training. However, the Government's statements suggest that the emphasis in vocational training for women is placed on training for occupations which are considered to be particularly appropriate for women workers, such as tailoring, embroidery, secretarial skills, computer operators, food processing, etc. The Committee also notes that the Government is encouraging girls to opt for scientific subjects. The Committee would therefore be grateful if the Government would indicate the measures which have been taken or are envisaged to combat segregation in training on gender grounds (for example, by guiding girls towards less traditional occupations and by adopting education policies designed to promote a positive attitude towards the capacities and aspirations of women) and to combat discrimination against women in relation to access to employment and the various occupations. Finally, it once again requests the Government to indicate the measures which have been taken or are envisaged to give effect to the recommendations made in 1997 by the Commission of Inquiry for Women, and particularly its recommendation that a detailed examination be made of laws and regulations that discriminate against women, with the aim of proposing amendments and other remedial measures. It also requests it to provide information on the progress made by the project to establish a national training and resource centre.

6. *Special industrial zones (SIZs) and export processing zones (EPZs).* Noting that the Government has not replied to certain points raised in its previous comment, the Committee hopes that it will indicate in its next report whether the labour legislation is applicable to SIZs and requests it to provide information on the measures taken to ensure the application in practice of the principle of non-discrimination in EPZs, particularly with regard to terms and conditions of employment.

Portugal (ratification: 1959)

1. The Committee notes with interest the Government's detailed report and attached documentation, including legislative texts, the Global Plan for Equal Opportunities and the National Employment Plan. It also notes the comments made by the Confederation of Portuguese Industry (CIP).

2. The Committee notes with interest information supplied concerning progress made with regard to the situation of women in the Portuguese labour market, particularly the increased participation of women in the labour market since 1995. The Committee further notes with interest the information supplied by the Government on the supervisory duties performed by the Commission for Equality in Employment and Occupation (CITE). The report indicates that, during the relevant period, the CITE received 100 complaints, mostly related to the dismissal of pregnant, post-natal or nursing mothers or violations of the laws protecting maternity and paternity rights. The government report indicates that discrimination related to maternity is the form of discrimination most frequently faced by women in the Portuguese labour market. The Committee notes that, of the 37 opinions approved and published by the CITE during the reporting period, 32 dealt with gender-based discrimination, specifically dismissals or wage discrimination related to maternity. In this connection, the Committee notes with interest the enactment of Act No. 18/98 of 12 April 1998, which extended maternity leave and childcare leave benefits. The Committee also notes with interest the information in the report concerning the social dialogue on equality and the CITE's activities in publishing and disseminating information intended to raise awareness of discrimination and promote equal opportunities and treatment between men and women in the labour market, including access to employment and vocational training. The Committee would be grateful if the Government would continue to keep it informed on the activities of the CITE to promote the elimination of discrimination on all the grounds set forth in *Article 1(1)(a) of the Convention.*

3. With reference to the CIP's comments regarding the need to expressly repeal the legal provisions restricting night work for women, the Committee notes the Government's explanation that section 31 of Legislative Decree No. 409/71, which prohibited women from engaging in night work in industrial establishments, has been tacitly repealed pursuant to section 7(2) of the Portuguese Civil Code. The Government indicates that the new legislation regulating night work, Act No. 73/98 and Legislative Decree No. 96/99, do not prohibit women from engaging in night work. The Committee notes from the Government's report that the only restrictions on the amount of night work women may perform are those designed to ensure maternity protection (see sections 17 and 19 of Act No. 4/84 of 5 April 1984, as amended by Acts No. 17/95 of 9 June 1995, No. 102/97 of 13 September 1997, No. 18/98 of 28 April 1998 and No. 142/99 of 31 August 1999). Moreover, the Government indicates that the restrictions contained in the legislation cited are in accordance with *Article 7* of the Night Work Convention, 1990 (No. 171). While the Committee notes the Government's statements in this regard, in light of the CIP's expressed concerns, the Committee nevertheless requests the Government to indicate whether it contemplates the explicit repeal of the prohibition set forth in section 31 of Legislative Decree No. 409/71.

4. The Committee notes with interest the adoption of Act No. 134/99 of 28 August 1999 prohibiting discrimination on the basis of race, colour, nationality or ethnic origin in, inter alia, employment and training.

The Committee is raising other points in a request addressed directly to the Government.

Romania (ratification: 1973)

1. The Committee notes the detailed information contained in the Government's report and the attached documentation. It also notes with interest that a new Labour Code is being drafted which will eliminate the inconsistencies between national legislation and international standards as regards equality. The Committee requests the Government to keep it informed of any developments in this regard.

2. Further to its previous observation, the Committee notes with interest the adoption by Parliament of the Emergency Ordinance No. 36/1997, amending and supplementing a number of provisions of the 1995 Education Act concerning equal access of national minorities to vocational training and education. The Committee notes that section 123(2) provides for the right of national minorities to constitute and administer their own private institutions, and requests the Government to indicate whether any such institutions have been established. Please also provide information on the general application of the Emergency Ordinance No. 36/1997, as amended.

3. While noting an overall increase in the number of minority language students attending vocational training, apprenticeship and post-secondary institutions, the Committee notes that they continue to be disproportionately under-represented in relation to their number in the general population (7,172 minority language students out of a total of 333,539 students, and those being only Hungarian- and German-speaking students), accounting for approximately 2.2 per cent of the total student body at the technical level. In its previous observation, the Committee had already noted this proportional imbalance in the education and training of minorities and had recalled that, while inequalities in access to vocational training and education rarely originate in legislative provisions that are directly discriminatory, indirect discrimination might arise out of practices based on stereotypes relating to minority groups and myths concerning their educational abilities. It had requested the Government to undertake studies into the educational opportunities available to minority groups and to assess how the 1997 amendments to the Education Act enhance the opportunities for their access to higher and technical education, which in turn lead to better jobs. The Committee also requested the Government to inform it of any positive action measures taken to encourage members of national minorities to avail themselves of the possibilities of mother-tongue education introduced in the 1995 Education Act. The Committee notes that the Government's report does not give any reply to these requests. It notes, however, from the Government's fifteenth periodic report to the United Nations Committee on the Elimination of Racial Discrimination (CERD/C/363/Add.1, 17 May 1999) that the Ministry of Labour and Social Security has devised a special programme of vocational guidance, which is operated by the local employment and social security offices through agents of the Rom. The Committee requests the Government to provide, in its next report, detailed information on this programme as well as its impact on the access of the Rom to educational opportunities. The Committee trusts that the Government's next report will also contain the information already requested regarding any other action, including research, undertaken to increase the educational opportunities of national minorities.

4. With regard to access to employment and particular occupations, the Committee notes from 1998 data provided by the Government on occupations held by the economically active population, that the number of Hungarian speakers holding

management and executive, administrative and economic posts increased, so that Hungarian speakers occupied 7 per cent of such posts. There are no longer any Rom holding high-level posts, whereas 0.7 per cent of such posts were occupied by Rom in 1996). The data also confirms the trend noted in the previous observation that the highest proportion of Hungarian speakers and Rom are found in the agriculture sector. The Committee further notes the 1988 statistical data on the employment and unemployment rates of men and women who are ethnic Hungarians and Rom, which indicate that the employment rate of women belonging to these groups is lower than for men, and that the unemployment rate for Hungarian-speaking minorities increased from 4.5 per cent in 1997 (with 4.7 per cent for men and 4.3 per cent for women) to 5.4 per cent in 1998 (with 5.6 per cent for men and 5.1 per cent for women). The data also show that the unemployment rate for the Rom is particularly high, amounting to 13.8 per cent in 1997-98 (with 13.2 per cent for men and more than 14 per cent for women). The Committee takes note that these statistics are disaggregated by sex and encourages the Government to continue to provide such data in future reports.

5. In its previous observation, the Committee noted the establishment of the Department for the Protection of National Minorities (DPNM) and the National Office for the Social Integration of the Rom, and requested information on the success of the initiatives undertaken by them, in particular with regard to any affirmative action measures taken to increase the number of Rom in public employment. The Committee notes with interest from the Government's report that Government Decision No. 459/1998 establishes an Inter-Ministerial Committee for National Minorities which advises DPNM. It also notes that a subcommission for Rom has been established within this Inter-Ministerial Committee, which has a working group composed of Rom representatives designated by the Working Group of Rom Associations (GLAR) – an apolitical forum of civil associations of Rom. It also notes that a Protocol on the Development of a Strategy for the Protection of the Rom Minority has been concluded between the DPNM and the GLAR. While welcoming these initiatives, the Committee, at the same time, is also concerned about the statement of the Government in its report submitted to CERD that the higher unemployment level of the Rom is due "not to any refusal to recruit Rom/Gypsies or to a preference for dismissing them in the event of staff cutbacks, but to other causes, including: (1) the lack of interest on the part of the Rom/Gypsies in attending school and learning a trade; (2) their increased preferences for casual work; (3) the limitation of their income, by their own choice, to state children's allowances and social assistance; and (4) their preference for own-account, frequently, illegal activities". The Government further states that "it will not be possible to eliminate this disproportion between supply and demand without a change of attitude and a higher standard of general education among Rom/Gypsies". While the abovementioned initiatives indicate the Government's intention to continue to address the question of the Rom through institutional and policy measures, the Committee nevertheless points out that the elimination of distinctions in employment and education depends on the general context of the integration of the Rom in society on a basis of equality of opportunity and treatment without which a full application of Convention No. 111 would be illusory. This requires measures aimed at, inter alia, promoting a climate of tolerance through awareness raising and education in the entire field of employment and education and beyond. The Committee notes from the CERD report that the DPNM is formulating a series of projects to improve Rom employment levels and initiate gainful activities in

cooperation with national and international partners. The Committee hopes that these projects will include steps taken to raise public awareness on the issue of tolerance towards the Rom communities and requests the Government to provide information in its next report on the impact of these projects as well as on any other measures taken to improve the status of the Rom, in regard to access to employment and occupation, including affirmative action measures taken to increase the number of Rom in public employment, in accordance with *Articles 3(d) and 5 of the Convention.*

6. *Article 2 of the Convention.* The Committee notes that the new Bill on national minorities is still under elaboration which would prohibit and penalise discrimination against minorities. It hopes that the Government will provide information on any developments concerning its adoption. The Committee also repeats its previous request for information on the work of the minority joint committees, created in the context of the Council of National Minorities, and referred to by the Government as forming part of the national policy for the elimination of discrimination in employment based on race, colour and national extraction.

7. *Measures of redress.* For a number of years, the Committee has been following up on Recommendations Nos. 6 (requests for medical examinations due to treatment received while in custody, made by persons who went on strike in 1987 and who have been subsequently rehabilitated by the courts) and 18 (rebuilding of the houses destroyed as part of the systematization policy against certain minorities) of the report of the Commission of Inquiry. Regarding the compensation for and rebuilding of destroyed houses, the Committee notes the series of normative acts initiated by the Department for the Protection of National Minorities aimed at the restitution of property belonging to national minorities: the Emergency Ordinance No. 21/1997 (approved by Act No. 140/1997) on the restitution of property which belonged to the Jewish community; Emergency Ordinance No. 13/1998 and Emergency Ordinance No. 83/1999 on the restitution of property to communities belonging to national minorities; and Government Ordinance No. 112/1998 on the restitution of property to communities (organizations and religious cults) belonging to national minorities. The Committee notes that 17 buildings have been returned through these Acts. The Committee requests the Government to provide information on the number of outstanding claims for restitution of property and to keep it informed of such restitution of property to the affected persons belonging to national minorities. The Committee also notes that section 10 of Act No. 118/1990 has been amended to grant compensation and a number of benefits to persons who have been persecuted for political reasons for taking part in the 1987 events; benefits include, inter alia, a monthly compensation of 60,000 lei for the person concerned or the surviving spouse, exemption from local taxes and free urban transport. The Committee notes in particular that the persons concerned are entitled to free access on a priority basis to medical assistance and medicines as well as to have their period of employment taken into account for the period covered for purposes of calculation of benefits. In follow-up of Recommendation No. 6 of the report of the Commission of Inquiry, the Committee requests the Government to provide information in its next report on the implementation of the provisions of Act No. 118/1990, as amended, and in particular with regard to requests for medical examinations made by persons who went on strike in 1987 and who have been subsequently rehabilitated by court order. Also noting the attached list of cases where compensation has been granted to persons who

took part in the strike of 1987, the Committee encourages the Government to continue to provide information on any new cases in which such compensation has been granted.

8. The Committee notes with interest that Act No. 108/1999 on labour inspection has been adopted and establishes an independent labour inspectorate with monitoring and advisory responsibilities. It notes that section 5(e) of the Act provides that the labour inspectorate may submit proposals to the Ministry of Labour and Social Protection for the improvement of existing legislation and the enactment of new legislation.

9. The Committee is raising other points in a request addressed directly to the Government.

Rwanda (ratification: 1981)

1. The Committee welcomes the efforts made by the Government, following the civil war which tore the country apart in 1994, to establish a State based on the rule of law and to promote peace and reconciliation, as noted by the United Nations Commission on Human Rights in Resolution No. 1999/20 on the situation of human rights in Rwanda. The Committee takes this opportunity to request the Government to keep the Office informed of the results of the awareness campaign that it has launched to promote the rule of law, respect for human rights and national reconciliation.

2. The Committee notes the information provided by the Government on the objectives and the number of persons who have followed the rehabilitation programme that repatriated persons seeking employment or already employed are required to follow. However, it notes that the Government's report makes no reference to the issue of whether measures have been taken to ensure that there is no resulting discrimination in employment and occupation based on any of the seven grounds enumerated in the Convention. It would be grateful if the Government would provide the information requested and also if it would indicate whether the process of rehabilitation which it describes is an isolated event or whether it is a continuing process.

3. Since 1985, the Committee has been expressing its concern with regard to the attestation or certificate of good conduct, lifestyle and morals, which is issued by the communal authorities, and which is required for persons to obtain salaried employment and to apply for employment in the public service, although no legal provision or regulations establish the criteria on which this attestation (or certificate) is to be issued or refused. The Committee notes the Government's statement that the liberalization of the recruitment of labour in 1993, without amendment to the regulations which are in force, had the de facto result of rendering null and void the Presidential Order of 17 April 1978, which organized the placement of workers and the supervision of employment. It therefore also nullified a number of formalities prior to recruitment, including the requirement of a certificate of good conduct, lifestyle and morals. Since then, recruitment in the private sector has essentially been based on the vocational skills of the applicants. The Committee notes that, according to the Government, the coming into force of the new Labour Code will give a legal basis to the current situation and will automatically result in the repeal of the above Order. The Committee would therefore be grateful if the Government would keep it informed of the progress achieved in the adoption of the new Labour Code and if it would provide a copy of the definitive text.

4. Nevertheless, the Committee notes that the attestation of good conduct, lifestyle and morals is still required from applicants for employment in the public service (despite the absence of legal provisions or regulations establishing the criteria on which this attestation is to be issued or refused) under the terms of section 5 of the Legislative Decree of 19 March 1974 which established the general conditions of service of public officials and section 6 of the Presidential Order of 20 December 1976, which established the conditions of service of personnel in public establishments. In its report, the Government considers that there are no grounds for concern with regard to such a requirement since "its grant by the communal authority, according to the usual practice, requires the opinions of lower bodies which are close to the population". However, the Committee remains concerned. It considers that requesting the opinion of bodies close to the population is not a sufficient guarantee of the effective respect of the principles set forth in the Convention and cannot compensate for the lack of criteria on which these bodies are to base their opinions. The Committee therefore suggests that recourse should be had to information which is less subject to interpretation, such as the person's criminal record. So that it can gain an idea of the scope of the phenomenon, the Committee would be grateful if the Government would provide statistics on the number of cases in which communal authorities have refused to issue an attestation of good conduct, lifestyle and morals, and on the reasons given for such refusals, as well as the number of appeals made against any such refusals by the communal authorities, including copies of the decisions of the Council of State in such cases. The Committee notes that the general conditions of service of public officials is under examination and requests the Government to keep it informed of the progress made with the draft revision of the conditions of service in the public service and to provide it with a copy of the definitive text once it has been adopted.

5. The Committee notes that, following the liberalization of recruitment, the labour administration is no longer responsible for conducting the necessary investigations concerning persons "suspected of carrying out activities prejudicial to the security of the State" and that such investigations are now the responsibility of other state services. Since the Government has not provided information on this point, the Committee once again hopes that the Government's next report will indicate the measures which have been taken to ensure that a person cannot be refused employment for reasons related to the security of the State, except within the limits prescribed by *Articles 1 and 2 of the Convention*, and subject to the right of appeal set out in *Article 4*, and that it will provide copies of court decisions on this matter.

Sierra Leone (ratification: 1966)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation, which read as follows:

> 1. In its previous comment, the Committee had noted with interest that the new Constitution (Act No. 6 of 1991) no longer made provision for a one-party system and did not reserve certain high-level public offices for members of the recognized party, as had the Constitution of 1978. (The previous Constitution of 1961, which had included a general provision for the protection of fundamental rights and freedoms on most of the grounds of the Convention was suspended in 1968.) The Committee had also noted with interest that article 8(3) of the new Constitution directs state policy towards ensuring that every citizen, without distinction on any grounds whatsoever, should have the opportunity for securing

> adequate means of livelihood and adequate opportunities to secure suitable employment and that article 15 lays down certain fundamental human rights and freedoms for all individuals irrespective of race, tribe, place of origin, political opinion, colour, creed or sex. As there had been no progress towards enunciating a national policy to promote equality of opportunity and treatment in employment and occupation, as required by *Article 2 of the Convention*, the Committee had hoped that, in the light of the new Constitutional provisions and, especially, those of article 8(3), the Government would proceed to formulate a national policy, in consultation with the tripartite Joint Consultative Committee.
>
> 2. In its reports, the Government states that, despite the suspension of the 1991 Constitution, the Government has a broad-based policy which ensures jobs for all who apply, regardless of sex, religion, ethnicity and political opinion. The Government also states that the Joint Consultative Committee has yet to make its final recommendations on a national policy. The Committee notes this information with concern. It recalls that in the 30 years since the Convention's ratification, the Government has reported consistently that no legislation or administrative regulation or other measures exist to give effect to the provisions of the Convention and that no national policy has been declared, pursuant to *Article 2*. With the suspension of the 1991 Constitution, there is no national legal instrument or formally declared policy in the country which provides any protection against discrimination. The Committee hopes that the Government will respect its obligations under the Convention. In particular, it trusts that a national policy on discrimination will be formulated, as required by the Convention, and that full details will be provided in the Government's next report, on the measures being taken and contemplated to apply the Convention.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Spain (ratification: 1967)

1. The Committee notes the detailed information supplied by the Government in its report. In regard to non-discrimination based on sex, the Committee notes with interest the large number of measures taken by the Government to foster the integration of women into the labour market, such as the new laws to encourage recruitment of women to permanent posts, providing incentives for social security and incentives of a fiscal nature which give employers the right to receive a reduction of their social security contributions. It notes in particular Act 64/97 of 26 December 1997, which promotes the hiring on permanent, full-time contracts of women belonging to the long-term unemployed in professions or occupations in which they are under-represented, granting the employer a 60 per cent reduction in social security contributions for 24 months after the engagement. The Committee would be grateful if the Government would supply information in its next report on the effect these measures have had on women's situation in the Spanish labour market.

2. The Committee also notes with interest that Act 50/1998 of 30 December has introduced sexual harassment into section 96 of the Act on the Status of Workers as a new type of serious offence in labour matters when it occurs within the ambit covered by the authority of the company's management. It also notes that Organic Law 11/99 of 30 April has modified section 1984 of the Penal Code which includes sexual harassment as a violation of workers' rights, when it occurs in the framework of the labour relationship.

3. The Committee notes the Government's reply to the comments made by the General Workers' Trade Union (UGT) in 1997. The Government indicates that its entire

policy in regard to equality of treatment and opportunity between men and women in employment and occupation is designed to promote sociocultural change in Spain, facilitating application of the Convention. In this context, the Committee notes the Government's statement in its report to the effect that the promotion of equality of treatment and opportunity between men and women is an essential part of the 1998 Employment Action Plan (Revised) and that, in accordance with the Treaty of Amsterdam (section 3(2)), the Government's intention is that equality between men and women will be embodied in all its policies and all its plans and projects. The Committee would be grateful if the Government could provide information on the positive action taken to promote sociocultural change in the country, which encourages participation of Spanish women in the labour market, particularly with regard to the sharing of family responsibilities. With reference to specific labour inspection measures for the purpose of eliminating discrimination on the grounds of sex, the statistics sent by the Government show that, in 1998, there were slightly less than half the number of inspections on discrimination against women which were carried out in 1997. The Committee requests the Government to explain the reasons for this significant decrease.

The Committee is sending the Government a direct request on various matters.

Uruguay (ratification: 1989)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation, which read as follows:

> 1. The Committee notes the observations presented by the Association of Employees of the National Board of Electrical Power Stations and Distribution (AUTE) – Inter-Union Assembly of Workers/National Convention of Workers (PIT/CNT) concerning discrimination on the basis of sex which took place in the National Board of Electrical Power Stations and Distribution (UTE). It is alleged that, because special social security standards are applied for women, women workers receive smaller amounts than men when they collect voluntary redundancy benefits.
>
> 2. The Committee notes that the Government has indicated that this situation has been denounced to the General Labour Inspectorate and is currently under examination. The Committee recalls the wide scope of *Article 1, paragraph 1(a), of the Convention* and paragraph 2(b)(iv) of Recommendation No. 111 and requests the Government to inform it of the final results of the proceedings brought by the labour inspectorate in this case.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

The Committee is addressing a request directly to the Government on other matters.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Algeria, Antigua and Barbuda, Argentina, Azerbaijan, Bangladesh, Barbados, Belarus, Benin, Brazil, Burkina Faso, Cameroon, Cape Verde, Central African Republic, Chad, Colombia, Costa Rica, Croatia, Cuba, Cyprus, Denmark, Dominica, Dominican Republic, Ecuador, El Salvador, Gabon, Germany, Ghana, Guatemala, Guinea, Guinea-Bissau, Haiti, Honduras, Hungary, Iceland, Islamic Republic of Iran, Israel, Italy, Jamaica, Jordan, Latvia, Liberia, Lithuania, Madagascar, Mali, Malta, Mauritania, Mexico, Republic of Moldova, Morocco, Mozambique, Nepal,* *Netherlands, Nicaragua, Niger, Panama, Peru, Philippines, Portugal, Qatar, Romania, Rwanda, Saint Lucia, Sao Tome and Principe, Senegal, Sierra Leone, Spain, Swaziland, Sweden, Syrian Arab Republic, Tajikistan, Togo, Trinidad and Tobago, Ukraine, Uruguay, Venezuela, Yemen, Zambia.*

Convention No. 113: Medical Examination (Fishermen), 1959

Liberia (ratification: 1960)

The Committee notes with regret that the Government's report has not been received. It must, therefore, repeat its previous observation on the following matters:

> For many years the Committee has asked the Government to indicate whether certain provisions applicable to merchant vessels, i.e. Requirements for Merchant Marine Personnel (RLM-118) and Maritime Regulation No. 10.325(ii) also apply to fishing vessels. The Committee again expresses the hope that the Government will provide full explanations regarding the applicability of the Liberian Maritime Laws and Regulations to the medical examination of fishermen. The Government is requested to indicate whether consultations with the fishing-boat owners' and fishermen's organizations concerned, if they exist, had taken place prior to the adoption of the applicable laws and regulations on the nature of the medical examination and the particulars to be included in the medical certificate as required by *Article 3, paragraph 1*, and to provide particulars on how the age of the person to be examined and the nature of the duties to be performed are taken into account in prescribing the nature of the examination as required by *Article 3, paragraph 2*.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

* * *

In addition, a request regarding certain points is being addressed directly to *Azerbaijan*.

Convention No. 114: Fishermen's Articles of Agreement, 1959

Liberia (ratification: 1960)

The Committee notes the Government's indication that the Committee's comments have been submitted to the Commissioner of the Bureau of Maritime Affairs for immediate action. Referring to its previous comments the Committee requests the Government to provide information on any reaction by the Commissioner. It also urges the Government to provide full information on each of the provisions of the Convention and each question in the report form approved by the Governing Body.

Convention No. 115: Radiation Protection, 1960

Barbados (ratification: 1967)

The Committee takes note of the information provided by the Government in its report. Further to its previous comments, the Committee again would draw the Government's attention to the following points:

1. *Article 1 of the Convention.* The Committee notes the Government's indication that no codes of practice nor controlling bodies have been set up in order to put into effect the provisions of the Convention. The Committee, however, notes that the Advisory Committee on Radiation Protection, first established in 1979, has resumed functioning. It also notes the numerous functions of this Committee which are to advise the Minister on an educational programme for designated and other workers and the general public; to keep records of designated radiation workers, their terms of employment, transfers and medical examinations, and of sources of radiation, their type and location, as well as to register and to license industrial sources; to devise an emergency plan in the case of accidents involving radioactive materials; etc. The Advisory Committee is also assigned to review the Radiation Protection Act 1971-11, to make recommendations applicable to the current national situation in Barbados, to prepare a detailed radiation protection programme for Barbados, and to develop a draft radiation policy for consideration by the Ministry. In view of the numerous functions of the Advisory Committee, the Government is requested to indicate the measures proposed or discussed in this Committee in order to take the necessary action to fulfil the obligations under the Convention. Moreover, the Committee asks the Government to indicate whether the Advisory Committee constitutes a tripartite body, composed of representatives of employers, workers and government and, if this is the case, to provide information on the manner consultations are held with the representatives of employers and workers regarding the measures to be taken in application of the Convention.

2. *Article 2.* The Committee notes the Government's indication that most of the work involving exposure to ionizing radiation was in the medical field, but that the number of industrial applications of radiation in Barbados is beyond its knowledge. In view of the activities of the Advisory Committee which are, inter alia, to keep records of designated radiation workers and to register and to license industrial sources of radiation, the Committee requests the Government to supply information on the activities of the Advisory Committee in this respect, in particular with regard to the assessment of main criteria to fix the threshold level above which the Convention is applied in the country.

3. *Articles 3 and 6.* The Committee recalls the comments it has been making for many years in relation to the provisions of these Articles of the Convention. It therefore wishes to recall once again that all appropriate steps shall be taken to ensure effective protection of workers against ionizing radiation and, to this effect, maximum permissible doses of ionizing radiation should be kept under constant review in the light of current knowledge relevant to implement effective protective measures. As regards the levels referred to in *Article 6* of the Convention, the Committee recalls that they should be fixed with due regard to the relevant values recommended from time to time by the International Commission on Radiological Protection (ICRP). In this connection, the Committee refers again to its general observation of 1992 under the Convention, and would draw the Government's attention to the revised dose limits for exposure to ionizing radiation established on the latest physiological findings by the ICRP in its 1990 recommendations and contained also in the Basic Safety Standards for Protection against Ionizing Radiation and for the Safety of Radiation Sources, developed under the auspices of the IAEA, ILO and WHO, and three other international organizations, which are based on the ICRP recommendations. The Government is therefore requested to indicate the steps taken or being considered in relation to the matters raised in its general conclusion to the general observation of 1992 relevant to the implementation of

measures ensuring an effective protection of workers exposed to ionizing radiation in the course of their work.

4. *Article 4.* The Committee notes that section 5, paragraph 1, of the Radiation Protection Act 1971-11 empowers the Minister of Health to give directives regarding protective measures to be taken against ionizing radiation as well as the time limits within which such measures shall be taken. The Committee requests the Government to indicate whether such directives have been issued and, if so, to provide a copy of these ministerial directives.

5. *Article 5.* The Committee notes with interest the Government's indication according to which a remote computerized brachytherapy afterloading system, type "Selectron HDR", has been installed in 1990 which reduces the number of workers dealing with the source of radiation to an extent that the probable exposure to radiation turns to zero. The Committee would ask the Government to indicate the fields in which this system is used and to supply information as regards experiences collected in applying this system.

6. *Article 7.* The Committee notes the Government's indication that no workers under the age of 16 are engaged in radiation work. The Committee accordingly would request the Government to indicate the legal basis providing for the prohibition to engage young persons under 16 years of age in work involving ionizing radiations. The Committee, however, recalls *Article 7, paragraph 1,* providing for the fixation of appropriate levels of exposure for workers aged at least 18 and who are directly engaged in radiation work. The Government is therefore requested to indicate the measures taken or contemplated to fix the maximum permissible dose limit for those workers in order to ensure effective protection of their health and safety.

7. *Article 8.* The Committee notes the Government's indication according to which workers who are not directly engaged in radiation work are also monitored and that their exposure reports show very low values or no radiation value. The Committee recalls the provision of *Article 8* obliging every ratifying State to fix appropriate levels of exposure in the light of knowledge available at the time for the group of workers not *directly* engaged in radiation work. It accordingly would ask the Government to indicate measures envisaged in order to fulfil its obligation under this Article of the Convention.

8. *Article 9.* The Committee notes the information supplied by the Government according to which an audible alarm system exists in the treatment room as well as a door interlock switch which, to the understanding of the Committee, interrupts the entry of radiation in the case of an inadvertent entry. As the Committee understands it, this security system only becomes effective in emergency situations. The Committee, however, recalls *Article 9, paragraph 1,* which provide for appropriate warnings at the workplace to indicate the *presence* of hazards from ionizing radiations as well as for the dissemination of information to the workers in this regard. The Government is therefore requested to indicate measures taken or contemplated in application of *Article 9, paragraph 1,* of the Convention. Regarding the application of *Article 9, paragraph 2,* of the Convention, the Committee notes the Government's explanations under *Article 10* of the Convention according to which qualified workers employed in a hospital setting are presumably aware of the occupational hazard of radiation exposure. Nevertheless, written instructions are available for personnel dealing with patients treated with large doses of radioactive iodine-131. In view of this information, the Committee would point

out that all workers have to be instructed in the precautions to be taken for their protection as regards their health and safety. In this regard, it would draw the Government's attention to section 2.4 of the ILO Code of practice for the radiation protection of workers (ionizing radiation) which contains general principles for informing, instructing and training of workers. The Government therefore is requested to indicate the measures taken or contemplated to ensure that workers are adequately instructed in the precautions to be taken for their protection. Nevertheless, the Committee wishes to know whether the security systems described above are installed in all areas where radiation work is performed.

9. *Article 11.* Noting the absence of information as to the application of this Article of the Convention, the Committee requests the Government to indicate the measures taken or envisaged providing for appropriate monitoring of workers in order to measure their exposure to ionizing radiations. The Committee ventures to call the attention of the Government to Paragraphs 17 to 19 of the Radiation Protection Recommendation, 1960 (No. 114), which proposes a number of measures to be taken in this connection.

10. *Article 12.* The Committee notes the Government's indication to the effect that all workers assuming duties at the hospital undergo a medical examination and are tested subsequently on a voluntary basis. It therefore wishes to point out that *all* workers directly engaged in radiation work shall undergo an appropriate medical examination prior to or shortly after taking up such work and subsequently undergo medical examinations at appropriate intervals. The Government accordingly is requested to indicate measures taken or envisaged ensuring that *all* workers directly engaged in radiation work profit from appropriate medical examination at the beginning of such an employment and at appropriate intervals. The Committee also requests the Government to provide information as to the nature and frequency of such medical examinations.

11. *Article 13.* In absence of information as well as provisions in application of this Article of the Convention, the Committee recalls that *Article 13* of the Convention provides for certain action, as specified in its paragraphs (a) to (d), to be taken by the employer in emergency situations; in particular, the employer should take any necessary remedial action on the basis of technical findings and medical advice. In this regard, the Committee would call the Government's attention to its 1987 general observation under the Convention. The Committee would be grateful if the Government would indicate whether special provisions exist or are envisaged concerning the measures to be taken in abnormal situations in conformity with *Article 13* of the Convention. With regard to emergency planning, the Committee would call the Government's attention once again to paragraphs 16 to 27 of its 1992 general observation under the Convention concerning occupational exposure during and after an emergency and requests the Government to indicate the steps taken or contemplated in relation to the matters raised in its conclusions, particularly under paragraph 35 (c).

12. *Article 14.* The Committee notes the Government's indication that only pregnant women, particularly within the first 12 weeks of their pregnancy, are not assigned to duties where exposure to ionizing radiations is likely. The Government is requested to indicate the legal basis providing for such protection of pregnant women. However, the Committee wishes to point out that *Article 14* of the Convention is applicable to *all* workers. It accordingly requests the Government to indicate whether

and, if so, under which provision, it is ensured that a worker who is medically advised to avoid exposure to ionizing radiations is not assigned to work involving such exposure, or is transferred to another suitable employment if he or she has already been assigned.

Greece (ratification: 1982)

The Committee notes the information supplied by the Government in its latest report.

1. *Article 8 of the Convention.* The Committee notes that section 1.3.4 of the Ministerial Decision No. 14632/(FOR) 1416/1989 requiring the immediate implementation of European Directives which set up lower dose limits. In this event, the Greek Nuclear Energy Committee is obliged to adopt new dose limits being the basis for a ministerial decision to be taken in order to translate the dose limits contained in the European Directives into national law. In this regard, the Committee notes the EU Council Directive 96/92/EURATOM of 13 May 1996 laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionizing radiation. Article 9 of this Directive fixes dose limits for workers exposed to ionizing radiation and its article 13 sets dose limits for the general public which are both in line with the dose limits recommended by the ICRP in 1990. The Committee, however, notes that the Council Directive 96/92/EURATOM does not contain any provisions prescribing dose limits for non-radiation workers, and thus the national legislation is lacking provisions fixing the annual dose limit for workers not directly engaged in radiation work. The Committee recalls the provision of *Article 8* of the Convention obliging the Government to fix appropriate levels of exposure in the light of knowledge available at the time for the group of workers not directly engaged in radiation work. In this respect, the Committee draws the Government's attention to section 5.4.5 of the ILO Code of Practice of 1986, according to which the dose limit for workers not directly engaged in radiation work should be the same as the dose limit fixed for individual members of the public. For this category of persons, the 1990 ICRP recommendation set up a dose limit of 1 mSv/year, averaged over five years. The Committee accordingly hopes that the Government will take the necessary measures in the near future in order to fulfil its obligation under this Article of the Convention.

2. The Committee is raising other points in a request addressed directly to the Government.

United Kingdom (ratification: 1962)

The Committee notes the information supplied by the Government in its latest report. It notes in particular the Government's indication that it plans to revise the national legislation as necessary in order to implement the European Directive 96/92/EURATOM and that in this context a Consultative Document was published in 1998 containing proposals for revised Ionizing Radiations Regulations.

1. *Article 7, paragraph 2.* In its previous comments, the Committee had drawn the Government's attention to the lack of regulatory or legislative provisions expressly prohibiting that persons under 16 years of age are engaged in work involving exposure to ionizing radiations. In this regard, the Government had indicated that the explicit prohibition would be incorporated in the context with the revision of the Ionizing

Radiations Regulations, 1985. In its last report the Government had indicated that, as the Basic Safety Standards Directive (96/92/EURATOM) did not expressly forbid young people under the age of 16 to work with ionizing radiations, the draft legislation only provides for a reduced dose limit of 1mSv/year. According to the Government, this ensures that young persons under the age of 16 will not be able to work in industrial undertakings which would result in significant exposure to ionizing radiation and this does however allow them to take part in approved work experience schemes which play an invaluable role in preparing young people for the world of work. The Committee therefore recalls once again that *Article 7, paragraph 2, of the Convention* provided for a general interdiction to engage young persons under the age of 16 in work involving ionizing radiations. The Committee trusts that the Government will take appropriate action towards the incorporation of a general interdiction to engage workers under the age of 16 in radiation work.

2. The Committee raises certain points in a request addressed directly to the Government.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Belarus, Djibouti, Greece, Mexico, Poland, Spain, Sweden, Tajikistan, Ukraine, United Kingdom.*

Convention No. 117: Social Policy (Basic Aims and Standards), 1962

Costa Rica (ratification: 1966)

Article 8 of the Convention. Migrant workers. The Committee notes the information supplied in the report of the Government in reply to its earlier comments. The Committee notes with interest the final report of the IV Binational Meeting between Nicaragua and Costa Rica, held on 12 and 13 May 1997, especially as regards the Subcommittee on Security and Migration, as well as the Government's intention to make every effort to treat the situation of migrant workers in Costa Rica with justice and solidarity, in conformity with the principles set forth in the Convention and enshrined in the ILO. The Committee also notes from the same report that "an agreement was reached to request technical cooperation from the international organizations to conduct a critical assessment of ways and means for exchange of information between the parties so as to allow cross-checking and permit rapid issuing of the seasonal worker card".

The Committee reminds the Government that it may request ILO technical assistance if it so wishes.

In addition, the Committee notes that the Government wishes to continue to make efforts with a view to resolving matters relating to migrant Nicaraguan workers in Costa Rica. The Committee requests the Government to continue providing information on the measures taken to ensure application of *Article 8*, and in particular on: (i) the analysis of results obtained with systems implemented to deal with the situation of foreigners including migrant Nicaraguan workers; (ii) the analysis of the results of the seasonal worker card; (iii) the number of seasonal worker cards issued to Nicaraguans, and the results of the regularization, so as to avoid their return or deportation, of their status as

migrants; (iv) the measures taken to initiate a procedure to issue a special passport for migrants; (v) the implementation and the results of the information campaign on the seasonal worker card to promote regulated migration, and (vi) the measures taken to resolve the problem of the migrants' families as well as their results.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Bahamas, Bolivia, Democratic Republic of the Congo, Ecuador, Ghana, Guatemala, Guinea, Israel, Jordan, Malta, Nicaragua, Panama, Portugal, Romania, Spain, Sudan, Tunisia, Venezuela.*

Convention No. 118: Equality of Treatment (Social Security), 1962

Barbados (ratification: 1974)

The Committee refers to its previous comments which it has been making for a number of years and in which it pointed out that section 49 (in conjunction with section 48) of the National Insurance and Social Security (Benefits) Regulations of 1967 and section 25 of the Employment Injury (Benefits) Regulations of 1970, which deprive a beneficiary, when residing abroad, of his right to ask for his benefit to be paid directly to him at his place of residence, are contrary to the provisions of *Article 5 of the Convention*. The Committee would like again to point out that under this provision of the Convention, Barbados, which has accepted the obligations for branch (e) (old-age benefit), branch (f) (survivors' benefit), and branch (g) (employment injury benefit), among others, must guarantee both to its own nationals and to the nationals of any other Member that has accepted the obligations of the Convention in respect of the branch in question, when they are resident abroad, direct payment of the benefit to which they are entitled under such branch.

In its report, the Government maintains its position that it will for the time being continue to progressively implement the provisions of *Article 5* by way of reciprocal arrangements, which it has currently in place with Canada, Quebec, the United Kingdom, and CARICOM countries. The Government states however that it will take the necessary steps in the very near future to comply fully with this Article of the Convention. The Committee takes note of this statement. It recalls that under this Article of the Convention the payment of long-term benefits (other than those of the type referred to in paragraph 6(a) of *Article 2*) shall be guaranteed as of right to beneficiaries resident abroad, even in the absence of a bilateral or multilateral agreement. Therefore, the Committee hopes that, in accordance with the assurances given, the Government will not fail to include in the near future in the legislation a provision ensuring direct payment of old-age, survivors' and employment injury benefits to all entitled beneficiaries at their place of residence.

Central African Republic (ratification: 1964)

The Committee notes with regret that the Government's report has not been received. It notes however, from the report supplied by the Government for the period ending 31 May 1998, that no new measure affecting the application of the Convention has been taken and that the Government wishes the Committee to refer to its previous report of 1997. In this situation, the Committee is bound to repeat its previous observation hoping that the Government's next report will contain full information on the following points:

> *Article 4 (branch (g))* (employment injury benefit). Section 27 of Act No. 65-66 of 24 June 1965 on industrial accident compensation should be supplemented by an express provision that in the case of a victim of an occupational injury who was a national of a State which has accepted the obligations of the Convention concerning employment injury, his dependants (survivors), even if they were resident abroad at the time of the victim's death and continue to reside abroad, shall receive survivors' benefits, if it is proved that they were actually dependent at the time of his death.
>
> *Article 5 (branch (e))* (old-age benefit). The national legislation should be amended to provide for payment of old-age benefit in case of residence abroad, both to nationals of the Central African Republic and to nationals of any other member State that has accepted the obligations of the Convention concerning branch (e).

Guinea (ratification: 1967)

With reference to its earlier comments, the Committee notes the information provided by the Government in its report and has examined Act L/94/006/CTRN of 14 February 1994 establishing the new Social Security Code.

Article 5 of the Convention. The Committee recalls that the Government, in its earlier reports, indicated that the new Social Security Code, when adopted, would give full effect to *Article 5* of the Convention under which the provision of old age benefits, survivors benefits and death grants, and employment injury pensions must be guaranteed in the case of residence abroad, irrespective of the country of residence and even in the absence of agreements with such country, both to nationals of Guinea and to nationals of any other State which has accepted the obligations of the Convention for the corresponding branch. However, in its last report, the Government indicates that the new Social Security Code does not entirely fulfil the requirements of the provisions of *Article 5* of the Convention, in that it does not provide for maintenance of payment of the various benefits in case of change of residence, and that this restriction is a constant feature of the legislation governing the field in the States in the subregion. However, the Government hopes that further negotiation of bilateral agreements with other States will make good this weakness in the Social Security Code.

In this connection, the Committee notes that under section 91, paragraphs 1 and 2, of the new Code, benefits are cancelled when the beneficiary definitively leaves the territory of the Republic of Guinea, or are suspended while she or he is not resident on national territory. It notes however that, under the last paragraph of that section, these provisions "are not applicable in the case of nationals of countries which have subscribed to the obligations of the international Conventions of the International Labour Office regarding social security ratified by the Republic of Guinea, or where there are reciprocal agreements or multilateral or bilateral social security agreements on the provision of benefits abroad". Since, by virtue of this exception, the nationals of any State which has accepted the obligations of Convention No. 118 for the corresponding branch, may in principle now claim benefits in case of residence abroad, the Committee requests the Government to indicate whether this is in fact the case and, if so, whether a procedure for the transfer of benefits abroad has been established by the national social security fund, to meet the possible demands for such foreign transfer. In addition, the

Committee requests the Government to state whether the exception provided in the last paragraph of the abovementioned section 91 is also applicable to Guinean nationals in the event of their transferring their residence abroad, in accordance with the principle of equal treatment established under *Article 5* of the Convention as regards the payment of benefits abroad.

Article 6. With reference to the comments it has been formulating for many years regarding the provision of family allowances in respect of children residing abroad, the Committee notes that, under section 94, paragraph 2, of the new Code, to obtain the right to family allowances, dependent children "must reside in the Republic of Guinea, subject to the special provisions of the international Conventions on social security of the International Labour Office, reciprocal agreements or bilateral or multilateral agreements". With respect to reciprocal agreements or bilateral or multilateral agreements, the Committee recalls that to date, Guinea has concluded no agreement of this sort for the payment of family allowances in respect of children residing abroad. Regarding the special provisions of the ILO Conventions, it recalls that under *Article 6* of Convention No. 118 any State which has accepted the obligations of the Convention for branch (i) (family benefit) must guarantee payment of family allowances both to its own nationals and to the nationals of any other member which has accepted the obligations of this Convention for that branch, as well as for refugees and stateless persons, *in respect of children who reside on the territory of any such State*, under conditions and within limits to be agreed upon by the States concerned. In this connection, the Government states in its report that "the payment of family benefits is guaranteed to families of whom the breadwinner has been regularly insured by the social security system, and is in order regarding the payment of his own contributions, and those of his successive employers". The Committee therefore hopes that the Government will be able to confirm formally in its next report that the payment of family allowances will also be extended to cover insured persons up-to-date with their contributions, whether they are nationals, refugees, stateless persons or nationals of any other States which have accepted the obligations of the Convention for branch (i), whose children reside on the territory of one of these States and not in Guinea. The Committee would also like to know in these cases how the condition of residence is dispensed with for the application of section 99, paragraph 2, of the new Code, which only recognizes as dependent those children "that live with the insured person", and also for section 101, which makes payment of family allowances subject to an annual medical examination of the child, up to the age where she or he comes under the school medical service, and the regular medical care for beneficiaries of school age attending courses in educational or vocational training establishments.

Iraq (ratification: 1978)

The Committee notes with regret that the Government's report of 1998 simply reproduces the text of its previous reports supplied in 1993, 1994 and 1997 and does not contain a reply to the Committee's previous comments. In this situation, the Committee cannot but repeat its previous observation which read as follows:

> *Article 5 of the Convention* (Provision of benefits abroad). Referring to its previous comments concerning the application of this provision of the Convention, the Committee notes the information contained in the Government's report as well as the discussions which took place in the Conference Committee in 1994. The Committee recalls that for several

years it has been asking the Government to indicate the measures taken or contemplated with a view to removing numerous restrictions concerning payment of benefits abroad for Iraqi nationals as well as foreign nationals, contained in section 38 of the Workers' Pension and Social Security Law No. 39 of 1971 and in Instruction No. 2 of 1978 regarding payment of social security pensions to insured persons leaving Iraq, which are contrary to this provision of the Convention. In this respect, the Committee notes from the Government's report that the situation has remained unchanged. The Government's last report mainly reproduces the information contained in its previous report and in the statements made by the Government representative during the discussion of this case in the Conference Committee in 1993 and 1994, according to which, rules concerning the payment of benefits abroad are of a purely procedural nature and do not constitute restrictions on the payment of benefits conflicting with the Convention. The Committee refers in this respect to the request it is addressing directly to the Government in which it reviews in detail the effect on the application of the Convention of section 38 of the Workers' Pension and Social Security Law No. 39 of 1971 and Instruction No. 2 of 1978 respecting the payment of social security pensions to persons who leave Iraq.

The Committee nevertheless notes, from the information supplied in the report and in the Conference Committee in 1994 by the Government representative, that the Government confirms its intention to study the possibility of modifying the national legislation and to pay benefits due to foreign workers, including Egyptian workers, who left Iraq in 1990, once the economic embargo imposed on Iraq is lifted, and after the release of Iraq's frozen assets in foreign banks and the improvement of Iraq's economic situation. In view of the fact that no payment of benefits abroad has yet been made, the Committee cannot but once again urge the Government to adopt in the near future measures ensuring the provision of long-term benefits in the case of residence abroad for Iraqi nationals and for nationals of other countries which have accepted the obligations of the Convention in respect of the branch in question, as well as for refugees and stateless persons, and to remove the restrictions in this respect in the light of the more detailed comments contained in the Committee's direct request.

Libyan Arab Jamahiriya (ratification: 1974)

The Committee notes with regret that, notwithstanding the assurances given by the Government representative during the discussion of this case by the Conference Committee in June 1999, which deplored the Government's failure to provide any new and substantial information since the case was last examined in 1992 and strongly urged it to do so, the Government's report has not been received. It further notes that, in its conclusions on this case, the Conference Committee has expressed deep concern that, despite the time which has elapsed, serious divergences continue to exist between the Convention and the national legislation and practice. In this situation, the Committee is bound to repeat its previous observation which read as follows:

1. *Article 3, paragraph 1, of the Convention (read in conjunction with Article 10).* (a) In its previous observations, the Committee noted that section 38(b) of the Social Security Act No. 13 of 1980 and Regulations 28 to 33 of the Pension Regulations of 1981 provide that non-Libyan residents receive only a lump sum in the event of premature termination of work, whereas nationals are guaranteed, under section 38(a) of Act No. 13, the maintenance of their wages or remuneration. The Committee emphasized that this difference in treatment between Libyan nationals and foreign workers in the event of the *premature termination* of their work is contrary to the principle of equality set out in this provision of the Convention and it drew the Government's attention to the need to eliminate this distinction in law and in practice. In this respect, the Committee notes with regret that

the Government's latest report only repeats the information provided in 1995 and does not refer to any change in the situation, which therefore remains contrary to the provisions of the Convention. In these circumstances, the Committee is bound once again to express the hope that the Government will not fail to reconsider the situation and take all the necessary measures to give full effect to the Convention on this point.

(b) The Committee also notes with regret that the Government's latest report also repeats word for word the information provided in 1995 with regard to the matters raised in its previous observations concerning the application of sections 5(c) and 8(b) of the above Act No. 13. In this situation, the Committee is bound to recall that where the subscription of nationals to the social security scheme is compulsory, as in the Libyan Arab Jamahiriya, the subscription of certain categories of foreign workers to the social security scheme on a voluntary basis only is contrary to the principle of equality of treatment as provided by the Convention (subject to any agreement drawn up between the Members concerned under *Article 9* of the Convention). The Committee hopes once again that the Government will take the necessary measures in the very near future to bring the legislation into conformity with the Convention on this point.

II. Furthermore, the Committee notes with regret that the Government's report does not contain any information in reply to the other matters raised in its previous observations. It is therefore bound to draw the Government's attention once again to these matters.

1. Under the terms of Regulation 16, paragraphs 2 and 3, and Regulation 95, paragraph 3, of the Pensions Regulations of 1981, and without prejudice to special social security agreements, non-nationals who have not completed a period of ten years' contributions to the social security scheme (years that may be supplemented, where appropriate, by years of contributions paid to the social insurance scheme) are entitled neither to an old-age pension nor to a pension for total incapacity due to an injury of non-occupational origin. Furthermore, Regulation 174, paragraph 2, of the above Regulations seems to imply *a contrario* that this qualifying period is also required for pensions and allowances due to survivors of the deceased person by virtue of Title IV of the Regulations, when death is due to a disease or an accident of non-occupational origin. Since such a qualifying period is not required for insured nationals, the Committee recalls that the above provisions of the Pension Regulations of 1981 are incompatible with *Article 3, paragraph 1*, of the Convention. It hopes that the Government will indicate the measures that it has taken or is envisaging to give effect to this provision of the Convention.

2. Regulation 161 of the Pension Regulations of 1981 provides that pensions or other monetary benefits *may* be transferred to beneficiaries resident abroad subject, where appropriate, to the agreements to which the Libyan Arab Jamahiriya is a party. The Committee recalls that, in accordance with *Article 5* of the Convention (read in conjunction with *Article 10*), each Member which has ratified the Convention *must* guarantee both to its own nationals and to the nationals of any other Member that has accepted the obligations of the Convention in respect of the branch in question, as well as to refugees and stateless persons, when they are resident abroad, the provision of invalidity benefits, old-age benefits, survivors' benefits, death grants and employment injury pensions. The Committee considers that the strict application of *Article 5* of the Convention is all the more necessary in the light of the mass expulsions which have taken place in the past of foreign workers from the national territory. It hopes that the Government will indicate in its next report the measures which have been taken or are envisaged to give effect to this basic provision of the Convention in both law and practice.

Finally, recalling that the Conference Committee has expressed profound regret that, up to now, the Government had still not taken up the offer of technical assistance repeated to it by the ILO on numerous occasions, the Committee would like once again to remind the Government that the ILO is available to provide it with the technical

assistance in the field of social security necessary to facilitate the application of the Convention.

Mauritania (ratification: 1968)

The Committee notes with regret that the Government's report contains no reply to previous comments. It must therefore repeat its previous observation which read as follows:

> *Article 5 of the Convention* (provision of benefits abroad). Further to its previous comments concerning the provision of benefits due to Mauritanian nationals who left Mauritania following the events of 1989, the Government indicates in its report that the National Social Security Fund insures the payment of benefit to Mauritanian nationals who left Mauritania in 1989, and it has already proceeded to regularize the claims of 10 pensioners and 13 other beneficiaries. The Government also states that Senegalese nationals entitled to benefits from the National Social Security Fund have been paid in accordance with Circular No. 120/DG of 28 November 1993 which authorizes the payment of arrears dating from April 1989.
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> The Committee notes this information with interest. It would like the Government to indicate whether there are other Mauritanian nationals entitled to benefit under the branches accepted by Mauritania (invalidity, old age, survivors' and work injury) who are still waiting to receive the benefit. It also requests further information on whether payments are made in periodic form.
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> *Articles 7 and 8.* The Committee notes that the Government's report does not provide any information on the provisions made concerning protection of the rights in the course of acquisition of Mauritanian nationals who had to leave the country after the events of 1989. It would appreciate receiving information on the measures taken in this respect (in particular as to old-age pensions).
>
> The Committee also requests detailed information on the practical application of the Convention, in accordance with *Part V of the report form*, including statistics of the amount of the benefits transferred to beneficiaries who reside outside the country.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Syrian Arab Republic (ratification: 1963)

Article 5 of the Convention. **In response to the Committee's previous comments, the Government indicates that a letter has been addressed to the Public Social Security Institution requesting the publication of the Bill to amend section 94 of the Social Insurance Code to enable the beneficiary of a pension, his/her dependants or the dependants of the insured person who has left the territory of the Syrian Arab Republic to request payment of the pension in the country in which they reside, or the amendment of section 94 of the Social Insurance Code to that end. The Government also indicates that it will inform the Committee about the response of the Office of the Public Social Security Institution.**

The Committee is bound to recall that the Government has been alluding to the above Bill for more than 15 years. The Committee therefore trusts that the Government will be able to confirm in its next report that it has taken the necessary measures to enact this Bill, so as to give full effect to this important provision of the Convention, ensuring

that beneficiaries enjoy the right to request payment of their pensions in their country of residence.

Article 10. In response to the Committee's comments on the need to explicitly include refugees and stateless persons within the field of application of the Bill respecting social insurance, the Government indicates that the letter addressed to the Public Social Security Institution requests either the submission of a draft text which includes refugees and stateless persons in the field of application of the Social Insurance Code (Act No. 92 of 1959) or the amendment of the Bill respecting social insurance so as to include refugees and stateless persons in its field of application. The Committee notes this information and trusts that the Government will be in a position to indicate in its next report the progress made in this regard.

[The Government is asked to report in detail in 2000.]

Turkey (ratification: 1974)

With reference to its previous observation, the Committee notes the information provided in the Government's report, as well as the comments made by the Confederation of Turkish Trade Unions and the Turkish Confederation of Employer Associations communicated by the Government together with its report.

Article 3, paragraph 1, of the Convention. In reply to the Committee's previous comments that it has been making for over 20 years, the Government states that the work on bringing the national legislation into conformity with this provision of the Convention referred to in its reports in the years 1985-86 has been continued in order to remove any ambiguity in law. In 1997, a special evaluation committee has been set up under the auspices of the Ministry of Labour and Social Security to examine the conformity of the national legislation with this Article of the Convention. At its first session on 10 April 1997 this committee composed of experts from different social security institutions has recommended to abrogate section 3, subsection II-A, of the Social Insurance Act No. 506 of 1964, which subjects participation of foreign workers in invalidity, old-age and survivors' insurance to a written request on their part, as well as section 24, subsection II-B of Act No. 1479 of 2 September 1971, which excludes foreign nationals from the scope of the self-employed persons' insurance scheme. The Government indicates that the work on amending the said legislation has started already and continues at present and that it will inform the Committee of any concrete progress achieved in this respect in its future reports.

The Committee notes this information. It further notes that the Confederation of Turkish Trade Unions maintains its previous view, expressed in the communication dated 4 July 1994, that the abovementioned section of Act No. 506 contravenes Convention No. 118, while the Turkish Confederation of Employer Associations would like to see a comprehensive reply from the Government to the comments put forward by the Committee in this respect. In the light of these comments and the long-standing assurances given by the Government to amend the legislation, the Committee renews its hope that the work on bringing the abovementioned provisions of the legislation in line with *Article 3, paragraph 1*, of the Convention could be completed in the foreseeable future and that the Government would be able to indicate the progress made in its next report.

Article 10, paragraph 1. The Committee recalls that, since the Government's first report, it has been calling the attention of the Government to the need to adopt an express provision to include refugees and stateless persons in the scope of Act No. 506 of 1964 and Act No. 1479 of 1971. In reply, the Government once again refers, as it has already done in its report of 1991, to the UN Convention on the Status of Refugees ratified by Turkey, and in particular to its Article 24 which obliges the Contracting States to accord to refugees lawfully staying in their territory equality of treatment in respect, inter alia, of social security. The Committee observes that this Convention does not cover stateless persons. As regards refugees, the application of this Convention, would still require the inclusion of an express provision in the abovementioned national legislation extending its scope of coverage to this category of persons to avoid any ambiguity in law. The Committee would therefore once again express the hope that the Government will reconsider the problem in the very near future either by soliciting an opinion on this question from the abovementioned special evaluation committee set up under the auspices of the Ministry of Labour and Social Security or by amending the legislation. The Committee trusts that the Government will not fail to indicate in its next report the progress made on this point as well.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Cape Verde, Central African Republic, Democratic Republic of the Congo, Guinea, Iraq, Libyan Arab Jamahiriya, Mauritania.*

Convention No. 119: Guarding of Machinery, 1963

Democratic Republic of the Congo (ratification: 1967)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> *Articles 2 to 4 of the Convention.* For several decades the Committee has drawn the Government's attention to the absence of measures giving effect to the above-mentioned Articles and to the need to make provision in the national legislation for, or to establish by other equally effective measures, the prohibition of the sale, hire, transfer in any other manner and exhibition of machinery of which the dangerous parts are without appropriate guards, with the obligation to respect this prohibition being placed on the person selling, hiring, exhibiting or transferring the machinery in any other manner, or on their representatives.
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> In its reports, the Government referred on several occasions to a draft Order relating to the guarding of machinery and to the review of the Labour Code as part of which provisions designed to give effect to the Articles of the Convention in question would be adopted. The Committee notes that this position was confirmed by government representatives during the technical advisory mission conducted by the ILO in 1997.

The Committee once again express the hope that in the very near future the Government will take all the necessary measures to ensure finally that the provisions of *Articles 2 to 4* of the Convention are applied.

Sierra Leone (ratification: 1964)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> For a number of years, the Committee has drawn the attention to the fact that national legislation does not contain provisions to give effect to *Part II of the Convention* (prohibition of the sale, hire, transfer in any other manner and exhibition of unguarded machinery) and that it does not provide for the full application of *Article 17* of the Convention (which applies to all sectors of economic activity), as it is not applicable to certain branches of activity, inter alia, sea, air or land transport and mining.
>
> Since 1979, in reply to the Committee's comments, the Government has indicated in its reports that a Bill to revise the 1974 Factories Act was being drafted and would contain provisions consistent with those of the Convention, and would apply to all the branches of economic activity. In its latest report (received in 1986), the Government indicates that the draft Factories Bill, 1985, has been examined by the competent parliamentary committee and is to be submitted to Parliament for adoption.
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> With its report for the period ending 30 June 1991, the Government supplied a copy of extracts of the Factories Bill containing provisions which should give effect to *Part II* of the Convention. In this connection, the Government was requested to indicate the stage of the legislative procedure reached by the Bill and the body which was in the process of examination of the Bill. Since no information has been provided by the Government in this respect, the Committee once again expresses the hope that the above-mentioned Bill will be adopted in the near future and requests the Government to provide a copy of this text, once it has been adopted.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

* * *

In addition, a request regarding certain points is being addressed directly to *Niger*.

Convention No. 120: Hygiene (Commerce and Offices), 1964

Madagascar (ratification: 1966)

The Committee notes the information provided by the Government in its report.

1. *Article 14 of the Convention.* The Committee notes section 16 of Order No. 889 of 20 May 1960, and the information provided by the Government in this respect. In accordance with section 16 of the above Order, suitable seats are only supplied to women workers. The Committee recalls once again that *Article 14* of the Convention provides that seats shall be supplied for all workers, without distinction on grounds of sex. The Committee notes the Government's statement indicating that it "will examine the possibility of extending this clause to all workers, without distinction on grounds of sex". The Committee trusts that the Government will take the necessary measures as soon as possible to extend the scope of section 16 of Order No. 889, so that it also covers male workers.

2. *Article 18 of the Convention.* The Committee notes the Government's indication in its report that no regulations have been adopted to give effect to this Article of the Convention, but that the Government will take this provision of the Convention

into account when bringing the legislation up to date. In this respect, the Committee recalls that it has been drawing the Government's attention for over 29 years to the fact that there are no specific laws or regulations giving effect to *Article 18* of the Convention. The Committee once again hopes that the Government will take the necessary measures in the near future to give effect to this Article of the Convention, which provides that noise and vibrations likely to have harmful effects on workers shall be reduced as far as possible.

3. The Committee notes with interest that the documentation centre of the National School of Magistrates and Clerks (ENMG), established in 1997, is preparing a compilation of case law on the decisions of the judicial tribunals on matters related to the application of the Convention. The Committee therefore requests the Government to provide information on any progress achieved in the preparation of the above compilation and to provide a copy as soon as it is published.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Bolivia, Djibouti.*

Convention No. 121: Employment Injury Benefits, 1964 [Schedule I amended in 1980]

Democratic Republic of the Congo (ratification: 1967)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> In reply to the Committee's previous comments, the Government states that it is not currently in a position to provide information that would enable the Committee to assess the application of *Articles 13, 14 and 18 (in relation with Articles 19 and 20)*, as well as *Articles 21, 23 and 24, paragraph 2, of the Convention,* in view of the difficult political and economic situation experienced by the country. With regard to the draft text to add to the schedule of occupational diseases, in accordance with *Article 8* of the Convention, diseases caused by the toxic halogen derivatives of hydrocarbons of the aliphatic series and diseases caused by benzene or its toxic homologues, the Government undertakes to transmit the extended schedule of occupational diseases as soon as it has been adopted by the National Labour Council.
>
> The Committee notes this information. It hopes that, despite the current difficulties, the extended schedule of occupational diseases will be adopted in the very near future in order to give full effect to *Article 8* of the Convention and that the Government will make every effort to provide information concerning the application of the other provisions of the Convention referred to above, as requested in its 1995 observation. The Committee would also be grateful if the Government would indicate any progress achieved in the formulation and adoption of the new Social Security Code.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Guinea (ratification: 1967)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

1. *Article 8 of the Convention.* The Committee notes with interest the Government's statement that in 1992 the National Social Security Fund together with the National Occupational Medicine Service revised the list of occupational diseases, increasing it from 13 to 29 items, thus aligning it with the list appended to Schedule I of the Convention, as amended in 1980. The Committee asks the Government to provide a copy of the list, indicating whether it is now in force.

2. *Article 15, paragraph 1.* In answer to the Committee's previous comments, the Government indicates that, in accordance with the provisions of section 111 of the Social Security Code, periodical payments for employment injury are converted into a lump sum when the permanent incapacity is at most equal to 10 per cent. The Committee recalls, however, that its comments concerned the possibility of converting the benefit granted in the event of employment injury in the circumstances provided for in sections 114 (conversion after expiry of a five-year period) and 115 of the Social Security Code (conversion into a lump sum of part of the periodical payment at the request of the person concerned). The Committee again expresses the hope that the necessary measures will be taken to ensure that in all these cases periodical payments may be converted into a lump sum only in exceptional cases and with the consent of the victim where the competent authority has reason to believe that the lump sum will be utilized in a manner which is particularly advantageous for the injured person.

3. *Articles 19 and 20.* The Committee notes the Government's reply. It notes however that the Government's report does not contain the statistical information requested which the Committee needs so that it can determine whether the amount of benefits paid in the event of temporary incapacity, permanent incapacity and death of the breadwinner, reaches the level prescribed by the Convention. In these circumstances the Committee once again asks the Government to indicate whether it avails itself of *Article 19* or of *Article 20* of the Convention in establishing that the percentages required by Schedule 2 of this instrument have been reached, and to provide the statistical information required by the report form adopted by the Governing Body under Article 19 or 20, depending on the Government's choice.

4. *Article 21.* In answer to the Committee's comments, the Government states that it has increased the benefits so as to ensure better coverage for victims of occupational accidents; furthermore, studies are under way with a view to a further increase in order to take fuller account of the economic context. The Committee notes this information. In view of the importance it attaches to this provision of the Convention which establishes that the rates of employment injury benefits must be reviewed to take account of trends in the cost of living and the general level of earnings, the Committee hopes that the Government's next report will contain information on the amount of the increases already established and that it will not fail to provide all the statistics required by the report form under this Article of the Convention.

5. *Article 22, paragraph 2.* The Committee once again expresses the hope that the Government will be able to take the necessary measures to ensure that, in all cases where employment injury benefits are suspended and particularly in the cases provided for in sections 121 and 129 of the Social Security Code, part of these benefits will be paid to the dependants of the person concerned in accordance with the provisions of this Article of the Convention.

6. The Committee notes the Government's statement that the provisions of the Conditions of Service of the Public Service give public servants and their families full satisfaction as regards social coverage. It once again asks the Government to provide the text of the provisions of the above Conditions of Service dealing with compensation for employment injury with its next report.

7. Lastly, the Committee asks the Government in its future reports to provide information on any progress made in the revision of the Social Security Code, to which the Government referred previously.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Libyan Arab Jamahiriya (ratification: 1975)

The Committee notes with regret that the Government's report has not been received for the sixth consecutive time. It must therefore repeat its previous observation which read as follows:

> *Article 21 of the Convention.* With reference to its previous comments, the Committee notes the Government's statement that, in accordance with sections 28 and 34 of the Social Security Act, No. 13 of 1980, the level of cash benefits currently payable for long-term benefits is reviewed following substantial changes in the cost of living or wage levels. It notes, however, that the Government's report does not contain the statistics requested in order to assess the manner in which this Article of the Convention is applied in practice. It therefore once again requests the Government to supply the statistics called for in the report form under this Article of the Convention.

The Committee hopes that the Government's next report will also contain a detailed reply to the questions which it has been raising for many years and which it is recalling in a request addressed directly to the Government. The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Sweden (ratification: 1969)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> With reference to its previous observation, the Committee notes the detailed report of the Government, requested as a follow-up of the recommendations made by the committee set up to examine the representation made under article 24 of the ILO Constitution by the Swedish Trade Union Confederation (LO), the Swedish Confederation of Professional Employees (TCO) and the International Confederation of Free Trade Unions (ICFTU), approved by the Governing Body at its 258th Session (November 1993).
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> *Article 8 of the Convention.* In reply to the questions raised in paragraph 47(b) of the report of the above-mentioned committee concerning changes in the definition of employment injury and in the burden of proof in such cases, the Government states in its report that no test cases have been decided and no evaluation has yet been made of the effects of the changes in the work injury concept and the burden of proof in work injury cases. However, in its report on Convention No. 102, the Government adds that "it can be assumed that in a considerably greater number of cases compensation will be denied in the future that has been the case to date". In this situation, the Committee trusts that the Government would not fail to supply in its next report full information on all the points mentioned in the said paragraph 47(b), including judicial decisions and statistics on the number of cases in which compensation has been denied according to the new rules, as soon as this information is available.
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> *Article 9, paragraph 3.* As regards the abolition of a one-day waiting period for payment of employment injury cash benefit, the Government indicates that such a measure would entail a far-reaching and administratively burdensome change of system. The

resulting obligation for the social insurance service to assess all work injuries reported, and not only those entailing a permanent reduction of working capacity and an entitlement to an annuity, as it is done now, would limit the benefits resulting from the coordination with health insurance, increase the cost and the administrative overheads of work injury insurance. Due to the present state of government finances, the Government has not found it possible to introduce such special arrangements for short and medium-length illnesses resulting from work injuries and, hence, to abolish the waiting day. On the other hand, the Government indicates that in its Spring Economic Policy Bill (Prop. 1995/96:150), it announced an increase in benefit level, as from 1998, to 80 per cent of qualifying income. Moreover, in the final report of the committee for a new structure for sickness and occupational injury insurance (SAK) it is recommended that, while there should be a 90-day period of coordination with health insurance, in the event of accidental injury, a work injury sickness benefit should be introduced which, together with regular sickness allowance, will equal 98 per cent of the qualifying income. The comments on this report are currently being processed by the Government which will be taking a policy decision on the future structure of work injury insurance. The Committee notes this information. It also notes that, in its comments on the Government's report, dated 9 April 1997, the Swedish Trade Union Confederation finds the maintenance of a one-day waiting period with respect to employment injury benefit unacceptable and in violation with the Convention and states that the Government still has no plans to give compensation from the first day.

The Committee is fully aware of the financial and administrative costs involved in suppressing a one-day waiting period, as well as of the efforts taken by the Government to restore the level of benefits which was previously reduced due to the state of government finances. In this respect it notes, in particular, the abovementioned proposal of SAK to introduce, in addition to the regular sickness allowance, a special work injury sickness benefit for those suffering employment injuries. The Committee hopes that, in considering this proposal in the overall new structure of sickness and occupational injury insurance, it will be possible for the Government to implement it in such a manner as to ensure that the cash benefits for incapacity for work due to a victim of an employment injury are paid from the first day of incapacity, in accordance with *Article 9, paragraph 3,* of the Convention. The Government is asked to indicate the progress made in its next report.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Uruguay (ratification: 1963)

The Committee notes that the Government's report has not been received. It hopes that the Government will supply a report for examination at its next session and that it will contain the statistical information requested under *Article 21 of the Convention* of the report form adopted by the Governing Body including in particular, information on changes for the period covered by the report in the cost-of-living or wages index along with increases to the scale of benefits for permanent incapacity and death.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Finland, Germany, Ireland, Libyan Arab Jamahiriya, Senegal, Slovenia, Uruguay.*

Convention No. 122: Employment Policy, 1964

Australia (ratification: 1985)

The Committee notes the detailed and informative report submitted by the Government concerning the implementation of the National Job Creation Strategy and evaluation of the various programmes. The Government states that the major source of growth of employment has been part-time employment, although growth of full-time employment picked up in 1997 and 1998. According to the OECD *Employment Outlook 1999*, a persistently high proportion of female labour force participants are in part-time employment (40.7 per cent in 1998). Although many of these part-time jobs are permanent, the growth in casual part-time work has increased more rapidly. The OECD *Employment Outlook 1999* also indicates that there has been a substantial increase in the long-term unemployment of men, from 24.4 per cent of male unemployment in 1990 to 36.5 per cent in 1998. During this same time, there was a substantial decrease in public expenditure on labour market training for the unemployed, from 0.16 per cent of GDP in 1994-95 to 0.06 per cent in 1997-98, and the participation rate of the unemployed in training schemes fell from 3.7 per cent in 1994-95 to 1.6 per cent in 1997-98. The Committee would appreciate continuing to receive information on the situation, level and trends of employment, unemployment and underemployment as they affect various categories of workers, such as part-time workers seeking full-time work and the long-term unemployed, as requested in the *report form under Article 1 of the Convention*. The Committee also notes with interest the decline in unemployment among older workers, despite an increase in the participation rate for this cohort. It would appreciate receiving further details on the specific policies underlying this change. Lastly, the Committee would be grateful if the Government would include in its next report information on policies to promote balanced regional development and assist areas with particularly high levels of unemployment.

Belgium (ratification: 1969)

The Committee notes the detailed information contained in the Government's report for the period ending May 1998. The Government states that the employment rate has increased from 54.7 per cent in 1990 to around 57 per cent in 1997, mainly due to an increase in employment of women in part-time work. It explains that the rate remains below the European average because the post-secondary education rate remains above the average, and the retirement age is lower. The participation rate was 58.6 per cent in 1990 but has increased to 62.8 per cent in 1996, again mainly due to the increase in women entering the workforce. Although this is below the European average, the Government points out that the growth rate is above average. As of 1996, 15.4 per cent of workers were self-employed, and 14.7 per cent were in part-time employment in 1997. The unemployment rate decreased slightly from 10 per cent in 1994 to 9.2 per cent in 1997. According to Eurostat, unemployment was at 9 per cent as of May 1999.

The Committee notes both the areas of improvement and those where problems linger, particularly concerning long-term and youth unemployment, and notes the various programmes, both federal and community-level, aimed at solving the problems. It would appreciate being kept informed of the Government's progress in tackling these issues. It also notes the detailed information supplied by the Government on the manner in which the policies are reviewed within a framework of coordinated economic and social policy, as requested in *Articles 1 and 2 of the Convention*, and would appreciate it if the Government would continue to do so.

The Committee notes that, according to the OECD country report for Belgium, women comprise over 80 per cent of part-time workers, and approximately 25 per cent of women work part time involuntarily. The Committee would appreciate receiving further information on the Government's policy pertaining to part-time work in general, and measures taken to ensure that such work is accepted voluntarily, as requested in the *report form under Article 1* of the Convention pertaining to underemployment.

Bolivia (ratification: 1977)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> 1. The Committee notes the Government's report and the detailed information provided by the Government in respect of the provisions of the Political Constitution of Bolivia, in its revised version of 1994, relating to labour matters. Moreover, the Government states that the Ministry of Labour and Small Enterprises has been requested to formulate employment policies, to give support to the study to evaluate measures to improve the organization of the employment market and to formulate policies to promote and develop small enterprises. In its previous comments, the Committee recalled that it had considered that many aspects of an active employment policy go beyond the immediate competence of the Ministry responsible for labour questions, so that the preparation of a full report on the Convention may require consultation with the other ministerial or government agencies concerned, such as those, for example, who are responsible for planning, economic affairs and statistics. The Committee, therefore, hopes that the Government will provide a detailed report with full information as required by the report form for the Convention and, in particular, the measures adopted to ensure that the objectives of an active employment policy are taken into consideration when determining other economic and social objectives. The Committee trusts that the Government will make every effort to provide, in its next detailed report on the application of the Convention, the statistical data concerning the size and distribution of the labour force and the nature and extent of unemployment, which is an indispensable stage in the formulation and implementation of an active employment policy, as laid down in *Articles 1 and 2 of the Convention*.
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> 2. Moreover, the Committee hopes that, in its next report, the Government will be able to include data in respect of the results achieved as a consequence of the measures intended to satisfy the needs of the most disadvantaged categories of workers who have difficulty in retaining their employment or in obtaining lasting employment, such as workers who are affected by administrative restructuring or rationalization of industries, women, young people, the disabled or the long-term unemployed. Please indicate the effect achieved by the measures provided for within the framework of regional and local programmes for strengthening small enterprises and other employment programmes.
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> 3. The Committee would also be grateful if the Government would provide information, in its next report, in respect of the measures to coordinate education and vocational training policies with the employment policy, to ensure that each worker shall have the fullest opportunity to qualify for and use his/her skills and endowments in a job for which he/she is well suited.
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> 4. Finally, the Committee again notes that, despite the numerous requests made by the Committee and the Conference Committee on the Application of Standards, the

Government has not provided information in respect of the consultations concerning employment policy to discuss the measures to be taken with a view to taking fully into account the experience and views of the persons consulted and, furthermore, in obtaining their full cooperation in the task of formulating and enlisting the necessary support for the implementation of such a policy. The consultations with the representatives of the persons concerned should include representatives of workers' and employers' organizations and also representatives from other sectors of the economically active population such as those working in the rural and informal sectors. The Committee trusts that the Government will include the detailed information required by the report form in respect of *Article 3* of the Convention in its next report.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Canada (ratification: 1966)

1. The Committee notes the information contained in the Government's report for the period ending June 1998. The Government states that private sector employment has increased during this period by 4.9 per cent, 90 per cent of which has been full-time work, while public sector employment decreased by 1.3 per cent. Overall, employment has grown by 1.9 per cent in 1997 and 2.8 per cent in 1998. In 1998, unemployment was at 8.4 per cent, down from 9.7 per cent in 1996. According to the OECD, GDP grew at the rate of 3.8 per cent increase in GDP in 1997 and 3 per cent in 1998, and it is projected to keep growing at above the OECD average in 1999-2000. Long-term unemployment (exceeding 12 months) was around 12.5 per cent of total unemployment in 1997 and 10.1 per cent in 1998. The Committee also notes the information contained in the collection of papers, for a seminar held in 1997, entitled "Incomes and productivity in North America", forwarded by the Government in response to previous comments. It trusts that the Government will continue to monitor the impact of the North American Free Trade Agreement (NAFTA) on the implementation of the Convention, in consultation with representatives of employers' and workers' organizations, and with representatives of other sectors of the economically active population in accordance with *Article 3*.

2. The Committee notes that youth unemployment decreased from 16.6 per cent to 15.7 per cent during the two-year reporting period, and that numerous programmes have been implemented or strengthened to increase youth employment further. The Committee would appreciate being kept informed of progress made in application of the Convention in this respect.

3. The Committee notes that the Government has set up an employment insurance (EI) reform programme. Under this programme, the federal Government must give provinces the option of participating more directly in all aspects of planning, designing and delivering active labour market policies. The provincial governments can elect to take over all responsibility or none, or to agree to co-management between the provincial and federal levels. According to the Government, most provinces have elected to assume either all responsibility or co-management. The Committee asks to be kept informed of the impact this transfer of responsibility has on the fulfilment of the objectives of the Convention, and to include information on how the consultations required under *Article 3* are ensured in this context.

Cuba (ratification: 1971)

1. The Committee notes the Government's report for the period ending May 1998. The Government indicates that signs of sustained recovery are still present, with growth in GNP at 2.5 per cent in 1995, 7.8 per cent in 1996 and 2.5 per cent in 1997. According to the Government, employment growth was at 1 per cent in 1996 and 1.9 per cent in 1995. The Government also refers to the 1995 assessment of the labour force and the improvement of employment programmes instigated at territorial level. In this connection, the Committee would be grateful if the Government would supply information in its next report on the situation, level and trends in employment, unemployment and underemployment, specifying the extent to which they affect different categories of workers, such as women, young persons seeking first employment, workers who have been made redundant due to structural change (see the requests contained in the *report form under Article 1 of the Convention*).

2. The Government refers to the 1997 State Budget, which establishes an austere internal financial policy in respect of public spending and wage increases. The Committee would be grateful if the Government would specify in its next report whether these objectives have been attained and to what extent the possible difficulties encountered in attaining employment goals have been overcome.

3. With reference to its observation of 1997, the Committee notes that the total number of workers employed in foreign enterprises, or in joint ventures, at the end of 1997, represented less than 0.5 per cent of the total number of employed. The Committee further noted that self-employment was a means of increasing workers' personal wages besides contributing to the state coffers via payment of the corresponding taxes. The Committee would be grateful if in its next report the Government would continue to provide information on alternative employment arising in the labour market and on any other measures which may have been taken to promote access to employment, in conformity with the Convention.

4. In this connection the Committee notes with interest that, with the technical aid of the ILO multidisciplinary technical advisory team, work is progressing on improving the employment assessment system. The Committee trusts that the Office's assistance will allow fuller promotion of an active policy designed to promote full, productive and freely chosen employment, and that the Government will indicate in its next report the action taken as a result of the assistance received *(Part V of the report form)*.

Denmark (ratification: 1970)

The Committee notes the information contained in the Government's report for the period ending September 1998, as well as more recent sources of information. During the period from 1994 to 1998, Denmark has seen substantial economic growth and a decrease in unemployment. As of April 1999 the unemployment rate was 4.7 per cent, according to Eurostat, down from over 12 per cent in 1993. The Government also reports a substantial drop in the long-term unemployment rate from 1994 to 1996.

The Government states that its economic strategy has been to combine growth-promoting macroeconomic policy with structural policy measures to ensure a well-functioning labour market. This includes combining growth with low inflation, balance-of-payments surplus and a gradual reduction of public debts.

The Active Labour Market Policy Act contains provisions for: placement services, guidance and information; various education and training programmes; a bonus scheme for employers who permanently hire workers employed in subsidized work; and a job rotation scheme in which employers are offered subsidies for hiring an unemployed person as a substitute for an employee on training or child-care leave. The Committee notes with interest these various schemes and their contribution in helping significantly to achieve the objectives of the Convention. It is addressing a request directly to the Government on some particular points.

In addition, the Government has established public sector pool jobs, lasting up to three years, in high priority areas such as environmental protection and health care, for people who have been unemployed for at least two out of the last three years. In this respect, the Committee notes the conclusions, approved by the ILO Governing Body, of the Committee set up to examine the representation submitted by *Dansk Magisterforening*, alleging non-observance of the Convention made under article 24 of the ILO Constitution. In its conclusions, the Committee had considered that job offer programmes for unemployed persons fall within the framework of measures required by *Article 2 of the Convention* for purposes of achieving the objectives set forth in *Article 1*, provided that such programmes are not used to fill permanent posts.

The Committee notes that unemployed persons under 25 years of age who have not completed a formal education or training programme are required to enter an education or training programme for a minimum of 18 months. The Committee requests further information on the number of youth undergoing such training and the subsequent rate of job placement.

The Committee notes with interest the decline in unemployment amongst older workers despite the increase in the participation rate for this age group. The Committee would appreciate further details on the policies underlying this change.

Lastly, the Committee notes the proposal to amend the Act, and to reform the vocational training and supplementary training system (VEU) which is due for completion in spring 1999. The Committee would appreciate further information on the content of any reforms adopted and on the role of the social partners in the reform process.

Greece (ratification: 1984)

1. Further to previous comments, the Committee notes the information contained in the Government's report for the period ending May 1998. According to the Government, the growth rate of GDP has been high recently and reached 3.5 per cent in 1997. Employment increased by an average of 0.9 per cent per year for the period 1994-97 while the labour force increased by a yearly average of 1.5 per cent. Unemployment has increased from 9.6 per cent in 1994 to 10.4 per cent in both 1996 and 1997, due to an increase in the labour force, urban migration, automation of production processes, limits on public sector spending, increased immigration and increased labour force participation of women. The groups most affected by the sluggish growth of employment are youth, women, and workers with a secondary level of education.

2. The Committee notes that according to the employment service (OECD), youth unemployment has steadily increased from 23.3 per cent in 1990 to 32.1 per cent in 1998. The Government indicates that for 1998 the Creation of New Jobs (CNJ) programme is targeted on the young and long-term unemployed. The programme consists of two stages: a stage of subsidized practical experience lasting two months, and a stage of subsidized employment lasting 16 months for males (18 months in areas of high unemployment) and 20 months for females. There are also additional employment subsidy programmes to promote the hiring of young people. The Committee would appreciate if the Government would include in its next report information on the progress of these various programmes in tackling the high rate of youth unemployment in Greece.

3. The Government also states that women form 60.7 per cent of the unemployed and 36.7 per cent of the employed in 1997. The OECD statistics indicate that the unemployment rate for women has increased from 12 per cent in 1990 to 17.8 per cent in 1998, and that the incidence of long-term unemployment amongst women has been increasing during the same period. The Committee notes that some of the OECD programmes described in the Government's report indicate exceptional provisions for encouraging the hiring of women, such as longer periods of employment subsidy. The Committee would appreciate receiving further information on the impact of these provisions on increasing employment among women seeking work, and on any other programmes under consideration, as requested in the report form under *Article 1 of the Convention* on trends concerning particular categories of workers frequently having difficulties in finding lasting employment.

4. The Government explains that the impact of the broader economic and social context on employment policies is given consideration through the Community Structural Framework for 1994-1999 (CSF II). The Government states that the average yearly number of new jobs is 1.7 per cent of the labour force, and projects that it will reach 2.3 to 3 per cent in the period 1997-2000. The Committee would appreciate being kept informed of the impact of the CSF II and other programmes on attaining the objectives of the Convention.

Hungary (ratification: 1969)

1. The Committee notes the information contained in the Government's reports for the periods ending May 1996 and May 1998. The Government indicates that the total potential workforce is growing in Hungary, yet there has been a decrease in labour supply in response to a decrease in labour demand. The decrease in demand is due to massive reductions in agriculture and industry. The decrease in supply is due mainly to increases in early retirement and the rate of post-secondary education. The shrinking of the employed population stopped at the end of 1996, but the overall level remains very low. The number of economically inactive persons has been consistently growing, as the employed labour force decreased from 50 per cent in 1990 to only 36 per cent in 1996. Furthermore, the duration of unemployment has increased to an average of 19 months in 1998. The long-term unemployed as a percentage of total unemployment reached 54.4 per cent in 1996, but dropped slightly to 49.8 per cent in 1998. However, youth unemployment has decreased, the result of a targeted active labour market policy.

2. The Government explains that it has moved from a crisis-oriented management strategy to a growth-promoting strategy. Its objectives include increasing the number of workplaces, promoting structural adaptation of the workforce, assisting in the prevention of unemployment, and reintegrating the unemployed and inactive populations. The Committee notes the programmes adopted to this end, including: training of various targeted groups, increasing the availability of training, providing financial assistance to employers with liquidity problems to avoid closures, assistance to unemployed persons wanting to set up their own business, support to organizations providing public benefit employment, and funding for travel costs for long-term unemployed accepting work involving a substantial commute. The Government has also changed the condition for receipt of unemployment benefit, to encourage the unemployed to accept jobs without risking loss of benefit in case the job does not last.

3. The Committee notes that the labour market participation rate is higher for men than for women. According to the Government's report, this is in part because of social attitudes. The Committee recalls that under *Article 1(2)(c) of the Convention* ratifying States undertake to provide the fullest possible opportunity for each worker to qualify for, and to use his skills and endowments in, a job for which he is well suited, irrespective of, inter alia, sex. The Committee would appreciate receiving further information on what measures the Government has taken to achieve this important objective of the Convention, and statistical information on their impact on promoting employment amongst women, as requested in the report form under *Article 1* of the Convention.

4. The Committee also notes that the Government has dissolved the Labour Ministry, and has parcelled out its previous functions to various separate ministries, such as the Ministry of Economy and the Ministry of Education. The Committee asks the Government to supply detailed information on the procedures adopted to ensure that the effects on employment of measures taken to promote economic development or other social objectives receive due consideration, at both the planning and the implementation stages. Please also explain how the principal measures of employment policy are decided on and kept under periodical review within the framework of a coordinated economic and social policy, as requested in the report form under *Article 2*. It would also appreciate further information on how the dissolution has affected consultation with workers' and employers' representatives as well as with representatives of other sectors of the economically active population, and what measures have been taken both to ensure that the views of these groups are taken into account in formulating economic and social policies and to enlist their support for such policies, as requested in the report form under *Article 3*.

5. Lastly, the Committee notes the conclusions, approved by the ILO Governing Body, of the committee set up to examine the representation alleging non-observance of the Convention made under article 24 of the ILO Constitution by the National Federation of Workers' Councils (NFWC). In its conclusions, the Committee considered that there was not sufficient information to make a determination regarding the effect of the Supplementary Budget Act of 1995, requiring a reduction in personnel expenses in the institutions of higher education, on the Government's declaration and pursuance of an employment policy in accordance with the Convention. The Committee asks that such information be included in the next report.

Ireland (ratification: 1967)

1. The Committee notes the information contained in the Government's report for the period ending September 1998. As of April 1999, the unemployment rate was 6.8 per cent, according to Eurostat. The Government states that the long-term unemployment rate was down to 5.6 per cent as of 1997, and that employment has grown by 7.5 per cent since 1995 and 84 per cent of new jobs are full time. The Government states that its main economic policy objectives are to secure and strengthen the capacity for sustainable employment, economic growth and social inclusion. To this end, a tripartite committee has secured agreement on public finances, a firmly fixed exchange rate, a coordinated wage strategy, and a commitment to economic and social solidarity.

2. The Committee notes with interest the Government's substantial progress in bringing down youth unemployment, from a peak of 27 per cent in 1993 to about 9 per cent as of April 1999, according to Eurostat. The Government states in its report that all persons 25 years of age and under in receipt of unemployment benefits for more than 12 months "are placed in job training or other constructive programmes" as provided for under the Employment Action Plan of April 1998. The Committee would appreciate receiving specific examples of such programmes and any evaluations which have taken place, as well as being kept informed of further changes in the youth unemployment rate.

3. In addition to tackling youth unemployment, the Employment Action Plan aims to reduce the percentage of long-term unemployed more generally. In its report the Government acknowledges that long-term unemployment remains too high, and indicates its aim of creating employment opportunities for those seeking work. The Committee notes this information and requests further details on the success of the Employment Action Plan in reducing long-term unemployment, particularly for male workers over the age of 45 and workers with relatively low skill levels.

4. Lastly, the Committee notes the information contained in the report on the independent evaluation of the human resource development programme undertaken by the Government. The Committee would appreciate being kept informed of any follow-up action taken in light of the report's recommendations, particularly as it affects prospective employment opportunities, as requested in *paragraph 3 of the report form under Article 1 of the Convention.*

5. The Committee notes the observations of the Scheme Workers' Alliance, supported by the Amalgamated Transport and General Workers' Union, alleging violation of *Article 1* of the Convention relating to freedom of choice in employment. It has received the Government's reply too late to deal with at the present session and therefore defers comment on the issue raised until its next session.

Libyan Arab Jamahiriya (ratification: 1971)

The Committee notes with regret that the Government's report has not been received. It hopes that a report will be supplied for examination by the Committee at its next session and that it will contain full information on the matters raised in its previous direct request, which read as follows:

> The Committee notes that General Surveys are to be conducted in the near future on the situation and trends in employment, which will be used as a basis for planning and formulating employment policies. It hopes that these surveys will enable the Government in

its next report to provide detailed statistical information on employment, both in the aggregate and in the various sectors of economic activity, as concerns particular categories of the population such as young people, women and immigrant workers. The Committee also asks the Government to state in what manner, on the basis of this information, an active employment promotion policy is formulated in consultation with the representatives of the persons concerned, in accordance with *Articles 1, 2 and 3 of the Convention*. Please also provide additional information on the following points.

1. The Committee notes with interest that special attention is being given to measures for training the workforce and that training plans have been adopted for more than 20 sectors. The report also refers to measures for on-the-job training, the enhancement of training opportunities for women and the establishment of vocational training centres for young people. The Committee would be grateful if the Government would provide additional information on the training measures and their impact on the employment of the persons concerned. Please indicate in particular the results of the training measures aimed at increasing the participation rate of women. Please state the manner in which education and training policies are coordinated with prospective employment opportunities, particularly for young people.

2. With reference to its previous direct request, the Committee would be grateful if the Government would provide information on developments in the application of the recommendations on raising production capacity and the redeployment of administrative staff in productive sectors.

3. More generally, the Committee asks the Government to complete the information on employment market policy measures with particulars of general and sectoral development policies that contribute to the promotion of full, productive and freely chosen employment.

Morocco (ratification: 1979)

Article 1 of the Convention. The Committee notes the information contained in the Government's report. The Government states that the urban active population consists of 5,068,000 workers. The participation rate is 34.9 per cent overall, 52.9 per cent for males and 17.3 per cent for females. Over half of workers are under the age of 35. The net gain in employment during the reporting period was 190,000 posts, constituting a growth in employment of around 4.7 per cent, and due mainly to growth in services in the private sector. The unemployment rate was 18.1 per cent in 1996, and 16.9 per cent in 1997. Unemployment declined for both men and women, and for those aged 15 to 24 and 35 to 44. The pool of unemployed is composed mainly of first-time jobseekers, those attaining advanced degrees, and those under 25 years of age. The Government adds that there was a decline in agriculture, forestry and fisheries. Measures taken to promote balanced growth in employment include encouraging entrepreneurship and providing tax breaks to employers. The Government has prepared a plan for rural infrastructure development, including building roads, providing potable water, and building dams for irrigation of crops. A training programme and revolving loan fund for young entrepreneurs have been established. The Government adopted in 1997 a four-year programme of action on employment with the goal of encouraging employers to provide a total of 80,000 apprenticeships over four years, and it is trying to increase the practical component of its vocational training. The Committee notes this information and requests further details on the impact of these measures on attaining the objective of full, productive and freely chosen employment. Further to its previous comments, the Committee also notes that no information was provided in the Government's report on how its budgetary, monetary and trade policies, and its medium-term financial strategy and privatization policy take into account employment promotion. It would appreciate receiving detailed information on these points in the Government's next report.

Article 3, in conjunction with Article 2. The Committee notes that the Government's report does not contain any information on consultations with the social partners. It requests further information on how the Government ensures that its employment policy is decided on and kept under review within the framework of a coordinated economic and social policy, in consultation with representatives of employers' and workers' organizations, as well as representatives of rural and informal sector workers.

Netherlands (ratification: 1967)

1. The Committee notes the detailed information contained in the Government's report, as well as the ILO Country Employment Policy Review for the Netherlands, 1999. General unemployment has dropped to around 3.3 per cent as of April 1999, according to Eurostat, while long-term unemployment as a proportion of total unemployment has remained around 47 per cent as of 1998, according to the OECD, indicating a decline in the number of long-term unemployed. According to the Government, the Manpower Services has been reorganized, in accordance with the Jobseekers Employment Act (WIG) which came into force in January 1998, and will give priority to the "difficult to place" workers within the new structure. The Committee would appreciate receiving further details in the Government's next report on the success of the various programmes in tackling long-term unemployment. In particular, it requests further details on the effect of programmes targeted at the least skilled long-term unemployed.

2. The Committee notes the continued increase in part-time employment, and that around 65 per cent of part-time workers are female. According to the OECD *Employment Outlook 1999*, the trend towards an increase in part-time work appears to have levelled off with just over half (54 per cent) of all working women in part-time employment. The Committee would appreciate receiving more information on any research undertaken to ascertain whether structural impediments to full-time work exist, as requested in the report form under *Article 1 of the Convention.*

3. The Committee also notes from the Government's report and the OECD *Employment Outlook* that there is a clear upward trend in public expenditure on subsidized employment. According to the Government, there are two types of subsidized employment: employment contracts and regulation cleaning services. The employment contracts involve local communities hiring long-term unemployed persons or youth and seconding them to regular employment in either the collective or private sector. Employment contracts last for a maximum of two years, but may be extended indefinitely. Regulation cleaning services seeks to increase employment by expanding the private sector demand for cleaning services by offering wage subsidies to employers. The Committee would appreciate further information on the success rates of these programmes in transferring the long-term unemployed and youth to lasting employment.

Norway (ratification: 1966)

The Committee notes the information contained in the Government's report for the period ending June 1998. The Government states that unemployment has decreased by around 17,000 between 1996 and 1997, and was continuing to decline into 1998. The greatest decline in unemployment was among youth (20-25 years of age). At the same time, the labour force expanded by 53,000 in 1996 and 46,000 in 1997. The OECD statistics indicate that the standardized unemployment rate dropped to 3.3 per cent in 1998, and was less than 3 per cent by the end of 1998.

The Government states in its report that the sharp increase in the number of vacancies and some labour shortages has challenged the Labour Market Service to mobilize sufficient labour. It is doing this through information, guidance, follow-up, recruitment assistance, placement and upgrading of skills. However, the Government identifies a continuing problem of discrimination against foreign-born workers, even those with good qualifications. The Committee notes the Government's intention to reduce the number of foreign-born unemployed through placements, upgrading of skills, training and wage subsidies, and would appreciate receiving further information on the Government's progress in this respect, including details on the levels and trends of employment of this particular category of workers, as requested in the report form under *Article 1 of the Convention*. It also draws the Government's attention to the prohibition against discrimination based on national extraction contained in the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), which Norway has ratified.

The Confederation of Trade Unions in Norway (LO) considers the Government's report to be thorough but would add that the labour market outlook is now poor. The LO believes that unemployment will grow in 1999. The Committee notes these comments, and asks the Government to keep it informed of changes in the labour market, and of the Government's response, as requested in the report form under *Article 1*.

Peru (ratification: 1967)

1. The Committee recalls that in its previous observation it noted the communication of the American Secretariat of the World Federation of Trade Unions (WFTU), conveying the concerns of the Peruvian Federation of Telephone Workers with regard to measures related to employment and the dismissals occurring as a consequence of privatization and restructuring of the telecommunications sector. The Committee notes the Government's comments, received in January 1999, listing the programmes which have been implemented in order to generate employment, such as PROEMPLEO – a national placement system, the Programme for the Promotion of Self-employment and Micro-enterprises (PRODAME), the Programme for the Consolidation of Women in Employment (PROFECE), and PROJoven. The Committee would be grateful if the Government would indicate in its next report, the manner in which the impact on employment was taken into consideration in the privatization and restructuring of the telecommunications sector. Please also state in what way the representatives of the interested persons were consulted with a view to ensuring their full cooperation and obtaining the necessary support for privatization, especially in respect of the restructuring of the telecommunications sector *(Articles 2 and 3 of the Convention)*.

2. The Committee trusts that the next Government report due for the period ending 30 August 2000, will also include the information required under points 2 to 7 of the observation published in the Committee's previous report.

Portugal (ratification: 1981)

1. The Committee notes the detailed information contained in the Government's report for the period ending May 1998. According to the Government, the active population increased by 0.6 per cent in 1996 and by 1.9 per cent in 1997. Youth employment increased by 2.8 per cent, full-time employment increased by 0.5 per cent, and long-term unemployment decreased by 2.1 per cent in 1997. However, part-time employment increased by 17.3 per cent in 1996 and 16.9 per cent in 1997, and self-employment has been consistently growing, most recently at rates of 4.5 per cent in 1996 and 3.6 per cent in 1997.

2. The Committee notes that the Government's strategy for promoting full employment involves modernizing enterprises and improving the social structure to reduce the impact of modernization on unemployment. To this end, the Government's priorities are to complete the third phase of EMU membership, which it has achieved; to consolidate public finances and fiscal reform; to reform the system of social development and protection; and to close the income gap with the rest of the European Union. One of the key components of this strategy is to boost training; currently, about 50 per cent of government expenditure on employment promotion is in the form of training.

3. For its part, the Central Union states that there has been a proliferation of involuntary self-employment, that only 15.7 per cent of formal sector workers have permanent contracts, and that youth have been particularly affected. Disparities between regions, ages, and sexes continue, and long-term unemployment remains a problem. The Central Union believes that the pending comments of the Committee of Experts on the level of unemployment remain valid, as it considers that the decrease in unemployment is due to fluctuations in the business cycle rather than the Government's policies. The Committee notes this information and requests the Government to continue to keep it informed of how the measures adopted for attaining the employment objectives are determined and reviewed regularly, within the framework of a coordinated economic and social policy and in consultation with the social partners, in accordance with *Articles 2 and 3 of the Convention.* The Central Union also emphasizes that there is a great need for evaluations of the Government's policies and programmes, as such evaluations do not exist. The Committee again requests the Government to provide copies of any assessments of existing programmes, particularly concerning youth and long-term unemployment.

Spain (ratification: 1970)

The Committee notes the comments by the General Union of Workers (UGT), transmitted to the Government in March 1999. The UGT affirms that the improvement of the employment situation in Spain has more to do with the short period of economic growth in recent years than with real government policies or appropriate measures, as referred to in *Article 2 of the Convention.* The number of people engaged in short-term work has scarcely dropped and 33 per cent of the active population is still in that category. The UGT alleges that government measures go against the objectives of the Convention as the Government has carried out an accelerated and indiscriminate process of privatizing the public business sector with obvious reductions in public investment but without any employment-creation measures. The UGT suggests the adoption of measures designed to promote an effective employment policy. The Committee notes that the Government has not communicated its comments on the matters raised by the UGT. The Committee refers to its observation relating to the Employment Service Convention, 1948 (No. 88) and would be grateful if the Government would provide a reply in its report due in the year 2000 to the matters raised by the UGT, including the required information on the employment situation which was requested in its 1998 observation in regard to Convention No. 122.

Suriname (ratification: 1976)

The Committee notes the information contained in the Government's very brief report for the period ending September 1998. The Government states that the 1994 programme for youth, drop-outs and women has finished and has not been renewed as it was not very successful. In its place, the Government is in the final stages of developing a National Reconstruction Plan, with assistance from the ILO, which is intended to support employment initiatives and to improve both education and the employment service. The Committee asks the Government to indicate whether the Plan has been enacted, and to supply details of its objectives and programmes. The Committee also requests that the Government provide information on the overall and sectoral development policies, including rural and regional policies, as requested in the report form under *Article 1 of the Convention*.

The Committee notes the comments sent by the Suriname Trade and Industry Association (VSB). The VSB states that the Government's fiscal and monetary policies are exacerbating inflation; that high exchange rates, increasing foreign debt, and general poor governance have dampened economic growth; and that in general the Government's policies are unclear. Furthermore, the VSB considers that the Government's Economic and Social Council (SER) has not been effective. The Committee notes these comments and asks the Government to indicate how the experience and views of representatives of workers' and employers' organizations are taken into account in formulating and evaluating employment policies within a framework of coordinated economic and social policy, as required under *Article 3, in conjunction with Article 2*.

Lastly, the Committee notes that the Government has periodically undertaken to implement a system for statistical analysis of the labour market, with ILO technical cooperation. However, the project has not yet succeeded because, as the Government explains, there are no researchers to carry out the data collection and that, in any case, the response from trade and industry is poor. The Committee strongly encourages the Government to take measures to establish an adequate data collection system, and would appreciate receiving further information on any progress made, as requested in the report form under *Article 2*.

Sweden (ratification: 1965)

1. Further to previous observations, the Committee notes the information contained in the Government's report for the period ending May 1998. It notes that the standardized rate of unemployment has decreased from a peak of 9.4 per cent in 1994 to 8.2 per cent in 1998. The Government reports that unemployment was as low as 6.3 per cent in May 1998, due to increases in both employment and adult education. There has been an increase in the workforce of 50,000 for the year ending May 1998 and employment is expected to increase by 100,000 by the end of 1999, while there was a decrease in underemployment and a sharp decrease in long-term unemployment, defined as unemployment exceeding six months. The Government has set a goal of 4 per cent unemployment by the end of 2000, and considers it is on track to attain this goal.

2. The Committee notes that the Government has instituted many programmes aimed at reducing long-term youth unemployment (aged 16-25), defined as unemployment for over 100 days. Youth long-term unemployment has decreased from 37,000 in 1994 to 5,000 in 1998. To tackle adult long-term unemployment, individual action plans are to be drawn up within 30 days of unemployment for all persons considered at risk (e.g. minorities). Adult long-term unemployment has decreased from 80,000 in May 1997 to 45,000 in May 1998. Furthermore, the Government states in its report that it is in the process of commissioning six independent evaluations of various programmes. The Committee hopes the ILO will receive further information on these programmes and their evaluation in terms of the aims of the Convention, and any follow-up action taken.

3. The Committee hopes the next report will provide information on consultations under *Article 3*.

Tunisia (ratification: 1966)

Article 1 of the Convention. The Government states in its report for 1998 that unemployment remained at about 15.5 per cent due to restructuring and drought. However, the eighth development plan resulted in the creation of 280,000 new posts, mainly in industry and services, and the Government had over 80,000 participants in its programmes. For the ninth plan, the Government has revised its employment programme and education and training system in light of labour demands. The Government states that employment remains its top priority and it aims to decrease the gap between labour supply and labour demand. Measures to promote employment include encouraging investment, increasing exports, increasing productivity, and bringing about social peace. The Government intends to improve the adaptation of education and training to labour demand, increase the capacity of training institutes and revise education and training curricula with input from the business community. The Government has also identified self-employment and small enterprise development as key components of its new development plan. Specific measures to promote entrepreneurism include reducing the cost of labour through decreased social taxes and health insurance contributions, encouraging banks to finance small enterprises, establishing a special bank to provide credit, and creating three pilot zones for entrepreneurship. The Committee notes this information and requests further details on progress made in preparing jobseekers for the labour market, particularly women and youth, and in promoting small enterprises and stimulating labour demand. It also asks the Government to include in its next report more detailed information on how the budgetary and monetary policies contribute to employment promotion, and on the Government's sectoral development policies.

The Committee also notes that the Government intends to develop a database on trends in the labour market and to undertake biannual studies. The Committee hopes that this project will be completed in the near future and looks forward to receiving more detailed information on the trends in employment, unemployment and underemployment, both in the aggregate and as they affect particular categories of workers such as women, youth, older workers, and workers with disabilities. It also would appreciate receiving extracts or copies of the studies produced, as requested in *Part VI of the report form.*

Article 3, in conjunction with Article 2. Further to its previous comments, the Committee notes that the report does not contain any further information on the Economic and Social Council, although the Government does state that it aims to solidify the consultation process. The Government also states that it is making efforts to improve social dialogue in general. The Committee recalls the obligation to ensure that the employment policy is decided on and kept under review within the framework of a coordinated economic and social policy, in consultation with representatives of employers' and workers' organizations, as well as representatives of rural and informal sector workers. It would appreciate being kept informed of progress made in this respect.

Turkey (ratification: 1977)

1. The Committee notes the information contained in the Government's report, as well as the comments made by the Turkish Confederation of Employers' Associations (TISK) and the Confederation of Turkish Trade Unions (TÜRK-İŞ). According to the Turkish National Statistics Institute, general unemployment stood at 6.9 per cent in 1997, with 9.7 per cent in urban areas and 4.2 per cent in rural areas. The Committee observes in particular that the unemployment rate has exceeded 30 per cent among young people graduated from upper secondary schools and universities in the cities, as indicated in Turkey's Seventh Five-Year Development Plan, 1996-2000. It would appreciate receiving further information on the measures taken or envisaged to remedy this situation. The Committee is also aware of the widespread suffering and great loss caused recently by the earthquakes and expresses its hope for a quick recovery.

2. The Government reports that policy measures have been taken on various issues impeding full employment. These policies include revenue tax breaks and a decrease in social security contributions to improve investment in priority development regions in Turkey; developing new products to expand Turkey's export markets; and assisting regions with particularly high unemployment rates through support and assistance to small and medium enterprises. Furthermore, the Government has rapidly increased compulsory education from five to eight years of schooling. The Committee notes this information with great interest and requests further details on the impact of these projects on expanding employment. It would also appreciate receiving information on wage and income policies, as requested in the report form under *Article 1 of the Convention.*

3. The Government states that through the employment and training project, in effect since 1995, the State Employment Agency has organized more than 4,000 courses and provided training to 75,000 unemployed, three-quarters of whom are women. The

Committee notes this information and requests further details on what proportion of these participants subsequently obtained jobs, if such information is available.

4. The Government also describes its labour force adjustment project, which aims to facilitate the privatization of public enterprises. This project includes counselling, education and placement services for workers who lose their jobs, as well as providing work in public utilities and other infrastructure projects. On the other hand, TÜRK-IŞ again states that the Government's policies have resulted in mass redundancies in both the public and private sectors, without effective adjustment policies. The Committee requests further information on the effectiveness of this project.

5. The Committee also notes that the Government reaffirms its commitment to reducing the informal sector, and has introduced an educational campaign on employer payment of contribution for various forms of insurance for workers, and flexible measures to improve payment. For their part, TISK and TÜRK-IŞ again emphasize the need to reduce the growth of the informal sector. The Committee would appreciate receiving further information on the effect of this campaign in reducing the informal sector.

6. *Article 3 of the Convention.* In reply to the Committee's previous request for further information on tripartite consultations, the Government states that the tripartite Economic and Social Council met 16 times between 1946 and 1972, and annually since 1972. In addition, local councils meet on request of the Prefect, more often in the more active local labour markets. TÜRK-IŞ repeats its allegation that there is no consultation with workers' organizations to implement Convention No. 122. The Committee once again requests information on the consultations actually held, including the specific workers' organizations included, the opinions received, and how these views were incorporated into employment policies and programmes.

United Kingdom (ratification: 1966)

1. Further to previous observations, the Committee notes the Government's report received in October 1998. According to the OECD, the standardized unemployment rate has decreased from 8.3 per cent in 1996 to 7 per cent in 1997 and to 6.3 per cent in 1998; employment has increased by 1.6 per cent in 1997 and 1.4 per cent in 1998; and long-term unemployment has decreased from 38.6 per cent in 1997 to 33.1 per cent in 1998. The Government indicates that workforce jobs increased by 429,000 from 1997 to 1998.

2. The Committee notes with interest the detailed information on the National Employment Action Plan and the new policies to be implemented by the Employment Service. The Government has put into place numerous programmes, including: a Jobfinder's grant to ease the transition from benefit to work; an employment-on-trial scheme which allows people unemployed for over 13 weeks to try a job and leave it voluntarily between the fourth and 12th week without subsequent temporary loss of unemployment benefits; and employment zones with more tailored programmes in geographical areas with particularly high levels of unemployment. The Committee would appreciate being kept informed of the results obtained under the Employment Action Plan and the Employment Service, as requested in the report form under *Article 1 of the Convention.*

3. According to the Government, part-time jobs reached 6.72 million as of the second quarter of 1998, an increase of 40,000 over the last quarter. According to the OECD, women constitute 80.4 per cent of part-time workers, and part-time employment constitutes 41.2 per cent of employment for women. The Committee notes that the 1999 OECD *Employment Outlook* report indicates that 22 per cent of the women in part-time work in the United Kingdom would prefer to be employed full time. The Committee would appreciate receiving in the next report further information on part-time employment, in particular on the voluntary nature of part-time work by gender.

4. The Committee requests that the Government indicate whether there are ongoing formal consultative procedures for ensuring the participation of employers' and workers' organizations in the formulation of employment policies.

Venezuela (ratification: 1982)

1. The Committee notes the communication received from the World Confederation of Labour (WCL) in February 1999, which refers to the dismissal of employees from the legal sector as a consequence of the restructuring of the Judicial Council and closing of local law courts. The WCL considers that the dismissals constitute a violation of the principles established in the Convention. In its reply the Government states that the reorganization of the Judiciary was undertaken without redundancies. The local law courts were replaced by new municipal law courts staffed with the employees from the former institutions.

2. The WCL also refers to the representation submitted, under article 24 of the Constitution of the ILO, by the Latin American Central of Workers (CLAT) as regards application of the Convention. The Committee recalls that the tripartite committee set up by the Governing Body of the ILO to examine the representation submitted by the CLAT and the Latin American Federation of Trade Workers (FETRALCOS) expressed the opinion that it would be in conformity with the requirements of the Convention for the Government to take advantage of the effort made by the workers in the informal sector to organize themselves to seek, through dialogue, in the spirit of *Article 3 of the Convention*, solutions to the employment problems arising from the existence of a very substantial informal sector (document GB.273/14/5, adopted in November 1998). The Committee trusts that the Government will include in its next report complete and detailed information on the employment policy measures adopted with regard to the informal sector, as well as the manner in which the representatives of persons affected in this sector are consulted in respect of employment policy.

Zambia (ratification: 1979)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> 1. Please provide information on any progress, in particular with ILO technical assistance, in establishing a labour market information system.
>
> 2. The Government refers in general terms to measures to soften the negative impact of structural adjustment on the most affected groups of the population and to assist and counsel retrenched workers. With reference to its previous observation, the Committee notes the absence of more precise information on the exact nature and scope of social measures taken to accompany the structural adjustment policy. The Government sets out briefly the

objectives of the Investment Act, 1991, and the Privatization Act, 1992. The Committee notes that studies have been commissioned to assess the impact of privatization on employment, and asks the Government to provide the conclusions of these studies as soon as they are available. It trusts that the Government will keep in close contact with the ILO in order to conclude these studies and consider what measures are needed in the light of the objectives of the Convention.

3. The Committee expressed concern in its previous observation at the difficulties apparently encountered in devising and applying an employment policy within the meaning of the Convention. It trusts that, perhaps in cooperation with the competent units of the ILO, the Government will in its next report be able to provide the information required by the report form on the measures adopted within the framework of a coordinated economic and social policy in order to promote, as a major goal, a policy in keeping with *Article 1 of the Convention*. In addition, it asks the Government to provide detailed information on consultations held in practice with representatives of the persons affected concerning employment policies implemented, indicating the views of those consulted and the manner in which they were taken into account in accordance with *Article 3*. The Committee recalls, as did the Conference Committee, that representatives of workers in the rural and informal sectors should be associated in such consultations.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Austria, Azerbaijan, Barbados, Bosnia and Herzegovina, Cameroon, Chile, China (Hong Kong Special Administrative Region), Comoros, Cyprus, Denmark, Djibouti, Guinea, Iceland, Islamic Republic of Iran, Iraq, Israel, Jamaica, Japan, Jordan, Korea, Kyrgyzstan, Lebanon, Madagascar, Mauritania, Republic of Moldova, Mongolia, Mozambique, Nicaragua, Papua New Guinea, Philippines, Romania, Russian Federation, Senegal, Slovakia, Slovenia, Sudan, Tajikistan, Uganda, Yemen.*

Convention No. 125: Fishermen's Competency Certificates, 1966

Sierra Leone (ratification: 1967)

The Committee notes with regret that the Government's report has not been received. It must, therefore, repeat its previous observation on the following matters:

In earlier comments the Committee had noted that there existed no laws or regulations to give effect to the Convention. In its latest report (1995) the Government indicated that it had formulated new regulations for the fishing industry which would incorporate the Committee's comments. The Committee hopes that the Government will provide information on the measures adopted to apply the provisions of the Convention.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

* * *

In addition, a request regarding certain points is being addressed directly to *Djibouti*.

Convention No. 126: Accommodation of Crews (Fishermen), 1966

Requests regarding certain points are being addressed directly to the following States: *Azerbaijan, Djibouti, Panama, Sierra Leone, Tajikistan, Ukraine.*

Convention No. 127: Maximum Weight, 1967

Algeria (ratification: 1969)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which was on the following points:

> 1. *Articles 3 and 7, paragraphs 1 and 2, of the Convention.* Further to its previous comments noting the absence of legislation limiting the weight of loads to be manually transported by adult males, the Committee notes with satisfaction that article 26 of Executive Decree No. 91-05 of 19 January 1991, concerning the general protective provisions applying in the field of safety and health in the work environment, sets the maximum weight of loads to be manually transported by adult males at 50 kg, and the maximum weight of loads to be transported manually by women and young workers at 25 kg.
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> In this connection, the Committee would, however, refer the Government to the ILO publication "Maximum weights in load lifting and carrying" (Occupational Safety and Health Series, No. 59, Geneva, 1988), in which it is indicated that 15 kg is the limit, recommended from an ergonomic point of view, of the admissible load for occasional lifting and carrying for a woman aged between 19 and 45 years. The Committee hopes that the Government will keep the matter under review so as to further limit the assignment of women workers to the manual transport of light loads, not exceeding, as much as possible, 15 kg, and that it will indicate the measures taken or envisaged to this end.
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> 2. *Article 6 of the Convention.* The Committee notes that modernization is taking place in the country and that the mechanization of operations has improved conditions of work and reduced the fatigue and risks encountered by workers. The Committee hopes that the Government will supply more detailed information on the technical devices used that limit and facilitate the manual transport of loads.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Madagascar (ratification: 1971)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which was on the following points:

> The Committee notes the adoption on 25 August 1995 of a new Labour Code (Act No. 94-029), under section 208 of which the provisions respecting occupational health and safety of the 1975 Labour Code remain in force. The Committee also notes the information provided by the Government in its report to the effect that the national Assembly has adopted a Code respecting health, safety and the working environment and that the texts to be issued under this code, which are currently being prepared, will take into account the

provisions of the Convention. The Committee recalls that its previous comments concerned the following matters:

> Even before the adoption of the Labour Code in 1975, the Government had announced in its reports that texts to apply the Code would include a text to give effect to this Convention. In a report received in 1983, the Government confirmed this undertaking, although it pointed out that factories manufacturing jute and plastic sacks for rice, flour, etc., now respected the standard of 50 kg, and that the old sacks of 70 or 75 kg were disappearing since they were no longer being manufactured in Madagascar. In its report for the period ending 30 June 1986, the Government indicated that the above information concerning the current standardization of sacks manufactured locally remained valid and that this practice would be laid down in regulations.
>
> The Committee noted that, according to the Government's report received in 1989, and the two letters signed by the Minister of the Civil Service, Labour and Labour Legislation in 1988, which were attached to the report, in practice factories, traders, transporters and farmers use sacks of 90, 75 or 70 kg, which are generally manufactured locally, even though certain enterprises which are the principal manufacturers of these articles currently respect the standard of 50 kg. Consequently, the use of sacks that are in conformity with the requirements of international standards would, in the opinion of the Government, give rise to problems at the level of manufacture and consumption and would create difficulties as regards production costs and prices for manufacturers, users, producers and rural workers. In a letter addressed in November 1988 to the social partners, the Minister invited them to recommend production units "in order to avoid the harmful effects of the immediate application of the Convention in national law and so as not to be in opposition with the country's undertakings at the international level", to manufacture, by stages, sacks of 55 kg or 65 kg and to introduce them progressively onto the market as they are produced.
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> The Committee recalls that by virtue of *Article 3 of the Convention*, no worker shall be required or permitted to engage in the manual transport of a load which, by reason of its weight, is likely to jeopardize his health or safety. This rule does not provide for any exceptions on the grounds of production costs or prices or for any other reason. The Committee noted that it was more than 20 years since Madagascar ratified the Convention. For several years, the Government has been undertaking to lay down in regulations the current practice adopted by the principal manufacturers of sacks which will respect the standard of 50 kg. In these circumstances, it considers that the Government's letter recommending the production of sacks of up to 65 kg constitutes a serious retrogression.
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> The Committee trusts that the Government will indicate in the near future the measures which have been taken to ensure that the Convention is applied to adult workers and that it will provide copies of the provisions that have been adopted, including a copy of the Code respecting health, safety and the working environment, when it has been enacted.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Thailand (ratification: 1969)

Articles 3 and 4 of the Convention. **The Committee notes with interest section 37 of the Labour Protection Act, 1998, prohibiting an employer from requiring an employee to lift, tote, carry with both hands, carry suspended from the ends of a pole across the shoulder, carry on the head, drag or push a heavy object in excess of the weights prescribed in Ministerial Regulations. As concerns the Ministerial Regulations to be issued in application of section 37 of the Labour Protection Act, 1998, the Committee** notes that the Department of Labour Protection and Welfare is cooperating with the Research Institution of Chulalongkorn University with a view to conduct research on national maximum weight for various types of work according to the different nature of work, physiological characteristics and climatic conditions. The results of this research would serve as an important indicator regarding the determination of national maximum weight to be transported manually by an adult male worker. In this respect, the Committee draws the Government's attention to the ILO publication "Maximum weights in load lifting and carrying" (Occupational Safety and Health Series, No. 59, Geneva, 1988), in which it is indicated that 55 kg is the limit, recommended from an ergonomic point of view, of the admissible load for occasional lifting and carrying for a male worker between 19 and 45 years of age. The Committee hopes that the Ministerial Regulations in application of section 37of the Labour Protection Act will be issued in the near future and will take due consideration of the information contained in the above mentioned ILO publication on differentiated weight limits for lifting and carrying loads occasionally or more frequently, as well as the results of the research integrating the conditions in which the work is to be performed, in conformity with *Article 4* of the Convention. It also requests the Government to supply a copy as soon as the Ministerial Regulations have been adopted.

Article 5. The Committee notes with interest the Notification of 31 March 1997 issued by the Ministry of Labour and Social Welfare prescribing, according to the Government's indications, the employer's obligation to arrange appropriate training at operational level as prescribed by the Director-General of the Department of Labour Protection and Welfare for those employees who are appointed employees' representative by the employer, in accordance with the Notification of 27 June 1995, issued by the Ministry of Labour and Social Welfare on the Occupational Safety, Health and Environmental Conditions Committee. The training courses must cover the subjects on the techniques and the safety of manual transport of loads, as determined by the training rules established by the Director-General of the Department of Labour Protection and Welfare. Following this training, the employees are appointed safety officers at the basic level of the workplace and should advise employees to comply with rules, regulations, orders, suggestions and measures relating to occupational safety. The Committee further notes the Government's indications to the effect that the above mentioned Notifications also provide for similar training courses for employees at the supervisory level. The Committee takes due note of the information provided by the Government. However, in order to be in a position to examine the extent by which these Notifications apply the provision of *Article 5* of the Convention, the Committee requests the Government to supply copies of the Notifications to which reference has been made.

Article 7. The Committee notes section 39 of the Labour Protection Act, 1998, prohibiting for *pregnant* women to perform work of lifting, toting, carrying with both hands, carrying suspended from the ends of a pole across the shoulder, carrying on the head, dragging or pushing a heavy object in excess of 15 kg. With regard to women in general, the Committee notes, that the legislation remains unchanged. In its previous comments, the Committee had noted that the laws currently in force provide that the maximum loads to be transported by women is 30 kg for work performed on level ground and 25 kg for work requiring the climbing of a ladder or on any elevated surface (section 14 of the Notification of 16 April 1972 issued by the Ministry of Interior concerning labour protection).

As regards young workers, the Committee notes with interest section 44 of the Labour Protection Act, according to which the minimum age for employment is fifteen years of age. It further notes the provision of section 45, subsection 3 of the same Act providing for the employer's obligation to prepare a record of conditions of employment, at the disposal of the inspection service, in the event that a young person under the age of 18 is employed, and that the conditions of employment have been changed from the original conditions. The Committee finally notes clause 3 of the Notification of 18 January 1990, issued by the Ministry of Interior on the Description of Work and Working Place for Young Persons, specifying the kinds of work in which an employer may already engage young persons from 13 to 15 years of age. Subsection 5 of clause 3 permits the employment of young persons from 13 to 15 years of age in lifting, carrying or pulling loads of not more than 10 kg.

In this regard, the Committee observes a contradiction between the provisions found in section 44 of the Labour Protection Act, 1998, and clause 3, subsection 5 of the Ministerial Notification of 18 January 1990 as concerns the minimum age for admission to employment. According to section 44 of the Labour Protection Act, 1998, the minimum age for employment of young persons in general is 15 years. In contrast, clause 3, subsection 5 of the Ministerial Notification 1990 authorizes the assignment of young persons aged between 13 and 15 years to manual transport of loads not exceeding 10 kg. The Committee, noting that the Government, in its report, refers to both provisions, requests the Government to indicate whether the Ministerial Notification of 1990 is still in effect. If that is the case, the Committee recalls that *Article 7* of the Convention provides for the limitation of the assignment of women and young workers to manual transport of loads. As regards young persons, Paragraphs 21 and 22 of Recommendation No. 128 stipulate that "Where the minimum age for assignment to manual transport of loads is less than 16 years, measures should be taken as speedily as possible to raise it to that level", and that "The minimum age for assignment to regular transport of loads should be raised, with a view to attaining the minimum age of 18 years". Where women and young workers are engaged in the manual transport of loads, the maximum weight of such loads shall be substantially less than that permitted for adult male workers (*Article 7* of the Convention). The Committee also refers to the ILO publication "Maximum weights in load lifting and carrying" (Occupational Safety and Health Series, No. 59, Geneva, 1988), indicating 15 kg as the limit, recommended from an ergonomic point of view, admissible for occasional lifting and carrying for a woman aged between 19 and 45 years. The Committee hopes that the Government will re-examine the current limits of admissible loads to be transported manually by a woman in the light of the information contained in the above mentioned ILO publication to ensure that the assignment of women to manual transport of loads other than light loads is limited. As the legal minimum age for assignment to manual transport of loads is only 13 years, the Committee requests the Government to indicate the measures taken or contemplated to raise the minimum age and to ensure that the assignment of young persons to manual transport of other than light loads is limited.

Tunisia (ratification: 1970)

Article 3 of the Convention. The Committee notes the information provided by the Government in reply to its previous comments to the effect that the results of the work of the commission responsible for reviewing the Order of 5 May 1988, determining the maximum permissible weight to be carried by a single worker, will be transmitted to the Office once it has finished its work. The Committee hopes that the above commission will be able to conclude its work in the near future and that the Government will provide detailed information on its activities and on the manner in which the most representative organizations of employers and workers have been consulted on this matter, as well as on the measures which have been taken or are envisaged to lower the maximum admissible weight of loads which may be carried by a single worker, which is currently set at 100 kg, a weight which considerably exceeds the recommended maximum of 55 kg.

The Committee hopes that the Government will make every effort to transmit with its next report information on the measures adopted in order to give effect to the Convention.

The Committee is raising certain points in a request addressed directly to the Government.

[The Government is asked to report in detail in 2001.]

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Lebanon, Malta, Tunisia, Turkey.*

Convention No. 128: Invalidity, Old-Age and Survivors' Benefits, 1967

Libyan Arab Jamahiriya (ratification: 1975)

With reference to the comments which it has been making for a number of years, the Committee notes with regret that the Government's report has not been received for the fourth consecutive time. It recalls that the Government's last report did not contain the information which has been requested on several occasions on the manner in which effect is given to *Part V, Article 29 of the Convention* (Review of cash benefits currently payable), which provides that the rates of cash benefits currently payable pursuant to *Article 10* (Invalidity benefit), *Article 17* (Old-age benefit) and *Article 23* (Survivors' benefit) shall be reviewed following substantial changes in the general level of earnings or substantial changes in the cost of living. In this respect, the Committee recalls its general observations made in 1989 with respect to Conventions Nos. 102 and 128, in which it considered, in particular, that, given the effects of inflation on the general level of earnings and increases in the cost of living, the revision of the level of long-term benefits should receive the Government's particular attention. The Committee therefore once again requests the Government to make every effort to ensure the application of *Article 29* and to supply the statistics called for under this Article of the Convention in the report form adopted by the Governing Body.

The Committee hopes that the Government's next report will also contain a detailed reply to the questions which it has been raising for many years and which it is recalling in a request addressed directly to the Government. The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

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In addition, a request regarding certain points is being addressed directly to *Libyan Arab Jamahiriya.*

Convention No. 129: Labour Inspection (Agriculture), 1969

General observation

Labour inspection and child labour

The Committee refers to its observation under the Labour Inspection Convention (No. 81), 1947, which applies equally to this Convention. Nevertheless, it wishes to emphasize the need to develop the activities of the labour inspection in the agricultural sector so as to highlight specific problems concerning children and adolescents occupied in the sector and to find appropriate solutions. These problems are the same as those pertaining in other sectors but are more serious, since, on the one hand, the legislation to protect workers is less advanced than in industry or commerce and, on the other hand, the use of machines and of chemical products has, over the course of the last decades, considerably increased the risk of accidents and of occupational diseases in agriculture. Moreover, in the sphere of agriculture, it is sometimes difficult to make a distinction between working conditions and conditions of life. It is for this reason that, under *Article 6, paragraph 2, of the Convention,* labour inspectors may be authorized to supervise application of the provisions governing the conditions of life of agricultural workers and their families. This possibility is particularly important for plantation workers who, in general, live with their families on the plantation, and are therefore entirely dependent on the employer in respect of lodgings, health, the education of their children, and spare time. These questions are effectively not always governed by laws and regulations the application of which may be supervised by the inspectorate. Therefore, at all events, it is desirable to give effect to the Article cited above so as to increase the scope of *Article 6, 1(c),* under which inspectors, by informing the central authority and by submitting proposals to it in respect of defects or abuses which are not covered by legal provisions and which have a particular effect on children and adolescents occupied or living on farming enterprises, help to improve the relevant legislation. Moreover, since education is one of the most effective means of definitively eliminating child labour, the participation of labour inspectors in localizing and registering the child workforce would help to establish an educational framework for this population.

Côte d'Ivoire (ratification: 1987)

The Committee notes the Government's reports for 1996 and 1997 and the partial information provided in response to a number of the Committee's previous comments. The Committee also noted the Government's statement to the effect that the information concerning the labour inspectorate's activities covers all economic sectors, including agriculture. The Committee has also examined the Government's reports concerning the application of Convention No. 81. However, it notes that no annual report on the activities of the labour inspectorate has been communicated to the ILO either under Convention No. 129 or Convention No. 81.

The Committee is therefore bound to again reiterate the need to publish annual reports, to enable the supervisory bodies of the ILO to regularly assess the manner in which effect is given to the Convention and to enable the social partners concerned to keep abreast of, to refer to, and actively participate in and contribute to the activities of the labour inspectorate in the manner provided for by the legislation. Where statistics are not classified according to economic sector of activity, the Committee is unable to assess the extent or effectiveness of the activities of the labour inspectorate. In order to do so, the Committee requires specific information on the activities of the labour inspectorate, as stipulated under *Article 27 of the Convention*, irrespective of whether such information is contained in the general annual report published by the labour inspectorate to assess the appropriateness of the material, financial and human resources set aside to ensure that conditions of work in the agricultural sector are met.

Moreover, the Committee notes the information provided by the Government to the effect that the inter-professional collective agreement of 20 July 1977, whose field of application at the time of adoption excluded employers and workers in the agricultural sector, now gives effect to the Convention. The Committee notes that the provisions of this inter-professional collective agreement establishes employer obligations which require close supervision by the labour inspectorate. The Committee therefore considers the publication of periodical statistics on the violations committed and sanctions imposed indispensable in this regard.

Finally, the Committee notes that copies of annual inspection reports are not transmitted to the representative organizations of employers and workers in the agricultural sector, as a consequence of which, these organizations are unable to formulate any observations they may have on the manner in which the Convention is applied.

The Committee addresses a direct request to the Government in relation to the application of *Articles 1, 3, 6, 7, 8, 9, 12, 13, 14 and 21* of the Convention.

Guyana (ratification: 1971)

The Committee notes the Government's reports for 1996 and 1998. It refers to its previous comments and again reiterates the requirement to publish and communicate to the Office, within the prescribed time limits established under *Article 26 of the Convention*, annual labour inspection reports containing the information enumerated under *Article 27* and recalls that the Government may avail itself of ILO technical assistance for the correct application of these provisions. The annual reports contain information enabling, on the one hand, the Government to regularly evaluate the overall progress in the labour inspection system and to adopt, where necessary, measures to improve its effectiveness and, on the other hand, provide the Committee with sound information to assess the manner in which the Convention is applied and to propose a more appropriate application of the Convention, where necessary. However, the Committee notes that, although the Government's report contains a statement of intent, no inspection report has been transmitted to the ILO since 1996. Moreover, the 1996 report contained only partial responses to the information required by the relevant Articles of this Convention and of the Labour Inspection Convention, 1947 [and Protocol, 1995] (No. 81). Statistics concerning the undertakings which require inspection visits and the number of workers employed in these undertakings had been omitted from the report despite their importance in assessing the appropriateness of the means made available to labour inspectors for the discharge of their duties. The Committee is bound once again to request the Government to regularly publish and transmit annual reports on the activities of the labour inspection service and reiterates its proposal to the Government to avail itself of the Office's technical assistance to establish the structures to enable the correct application of this Convention and Convention No. 81.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Burkina Faso, Colombia, Côte d'Ivoire, France, Germany, Kenya, Latvia, Madagascar, Malta, Republic of Moldova, Netherlands, Norway, Romania, Zimbabwe.*

Convention No. 130: Medical Care and Sickness Benefits, 1969

Bolivia (ratification: 1977)

In reply to the comments that the Committee has been making for a number of years, the Government cites section 10 of the new Act on Pensions No. 1732 of 1996, covering benefits for invalidity as a result of occupational accidents, stating that all provisions contrary to this Act have been repealed. The Committee draws the Government's attention to the fact that benefits for employment injury and occupational diseases are considered under the Employment Injury Benefits Convention, 1964 (No. 121), and that the matters raised by the Committee in connection with Convention No. 130 relate solely to medical treatment and medical benefits of ordinary origin. In this regard, the Committee requests the Government to confirm that the legal provisions applicable to these branches of social security to which it referred in its previous reports (Legislative Decree No. 10173 of 1972, No. 13214 of 1975 and No. 14643 of 1977) are still in force. In addition, it trusts once again that the Government's next report will contain detailed information on the following matters raised in the Committee's previous comments.

> 1. *Part II (Medical care), Article 16, paragraph 1, of the Convention.* The Committee once again requests the Government to adopt the necessary measures to ensure that medical care is provided throughout the contingency, in accordance with this provision of the Convention.
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> *Article 16, paragraph 3.* The Committee recalls that, under section 23 of Legislative Decree No. 13214 of 1975, in the event of sickness certified by the responsible physician before the insured person is given sick leave, entitlement to the corresponding medical care for this sickness shall not be interrupted and may continue up to the legal limit of 26 weeks, or less if the medical treatment is terminated. The Committee trusts that the Government will indicate in its next report the measures that have been adopted to extend, in the case of beneficiaries who lose their status as insured persons, the duration of medical care for prescribed diseases recognized as entailing prolonged care, as required by this provision of the Convention.
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> 2. *Part III (Sickness benefit), Article 21, in conjunction with Article 22.* The Committee once again draws the Government's attention to the fact that, in accordance with *Articles 21 to 23*, the rate of the sickness benefit shall be such as to attain a minimum level (60 per cent) for a standard beneficiary (a man with a wife and two children). *Articles 22 to 24* offer the Government various formulae that can be adapted to national practice for the

determination of this minimum level. The formula envisaged in *Article 22* is intended to take into account systems of protection which, as is the case of the Bolivian social security system, provide benefits calculated on the basis of the beneficiary's former earnings. The Committee recalls in this respect that, in view of the fact that Legislative Decree No. 13214 of 1975, and section 81 of the Social Security Code, as amended, envisage a maximum amount for the rate of benefit and for the earnings taken into account for its calculation, the percentage of 60 per cent provided for in the Convention must be calculated with reference to a standard beneficiary whose earnings are equal to the wage of a skilled manual male employee (*Article 22, paragraph 3*). The information requested under the terms of *Article 22* of the Convention and, in particular, relating to the wage of a skilled manual male employee, is merely intended to permit comparison of the rate of benefit paid under the national legislation with the minimum rate established by the Convention. In these conditions, the Committee once again hopes that the Government will be able to take the necessary measures to provide the information required in the report form adopted by the Governing Body on Convention No. 130, and particularly the information on the wage of a skilled manual male employee, determined in accordance with *paragraph 6 or 7 of Article 22*, the amount of the sickness benefit paid to such a skilled worker, and the maximum level of wages subject to contributions.

3. *Article 26, paragraph 1.* The Government states in its report that sickness insurance benefit is provided for 52 weeks and, for chronic illnesses, this period may be extended by the Ministry of Health. With regard to cash benefit, the subsidy for temporary incapacity is provided for 52 weeks at a rate that is equivalent to 75 per cent of the wage that is subject to contributions. The Committee once again emphasizes that section 30 of Legislative Decree No. 13214, of 1975, establishes that the common sickness subsidy commences from the fourth day of incapacity, with a maximum duration of 26 weeks, which can be extended for another 26 weeks *if by doing so it is possible to avoid the status of invalidity*. The Committee recalls that this requirement is not authorized by *Article 26* of the Convention, which provides that sickness benefit shall be granted throughout the contingency, provided that the grant of benefit may be limited to not less than 52 weeks in each case of incapacity. In these conditions, the Committee once again reminds the Government of the need to harmonize the provisions of the legislation that is in force with those of the Convention.

4. In previous comments, the Committee had referred to the possibility of having recourse to the technical assistance of the Office to resolve difficulties arising out of the application of the Convention. In addition, the Government had referred to a structural reform of social security in Bolivia. As so many years have passed since these matters were first raised concerning the application of the Convention, the Committee trusts that the Government will provide a detailed report in which it will take fully into account the matters that have been raised in order to give full effect to the Convention and that it will not hesitate to have recourse to the technical assistance that can be provided by the Office to assist its efforts to apply the Convention.

[The Government is asked to report in detail in 2000.]

Finland (ratification: 1974)

1. The Committee notes the information provided by the Government in its report for the period 1994-98 together with the new comments made by the Central Organization of Finish Trade Unions (SAK) and the Confederation of Unions for Academic Professionals (AKAVA). It recalls that in its previous observation dealing with the Government's report for the period 1991-94 and the comments of the same organizations, concern was expressed, in the light of *Articles 13, 17 and 30 of the*

Convention, over the fact that continuous cuts in government health spending led to the weakening of the public medical services, the significant transfer of medical care to the more expensive private sector providers, accompanied by the general reduction of the level of compensation and the consequent increase of the patient's own share in the cost of the necessary medical care. The Government was asked in particular to reconsider these questions, reinforce public health care facilities and ensure that the level of compensation for medical care prescribed in the legislation is applied in practice.

In their new comments, both trade union organizations point out that the problems relating to the availability, coverage and compensation of health care services mentioned in their comments of 1994, remain largely the same and that the overall situation has not improved. The AKAVA states that cost-cutting in the public health system has led to the reduction of the preventive and basic health care services and staff, with the remaining staff showing signs of burn-out. One result of such measures has been an increase in spending on specialized medical care and impractical placements of patients. The SAK adds that, as a result of the public management reform, local authorities' financial situation and growing autonomy, public health care staff resources are not gauged to meet the need, and waiting lists for various public health services, such as operations, have got longer. Supervision and monitoring of municipal health services, which are the responsibility of the local state offices, have deteriorated and are often not performed in practice because of lack of competence or the data needed to carry it out. On the other hand, the cost of private physicians' services puts them beyond the reach of many. Concerning the level of compensation of medicines, the SAK states that, because of the way medicinal products are priced, the deductible part payable by low-income people is becoming unreasonable. According to the AKAVA, the proportion of medicine costs paid by patients has risen greatly in the last five years and now accounts for over half of the total. This, in turn, has reduced the chance that people get all the treatment they really need. Finally, the SAK stresses that social decisions on health care systems and compensation should be taken with a long-term perspective in view.

With regard to public health care facilities, the Government points in the report to an increase in the number of visits to public services, part of which could be attributed to a real increase in visits, while another part is due mostly to the fact that, as a result of the state subsidy reform of 1993, hospitals obtain their revenues now primarily on the basis of patients treated and have therefore introduced more exact registers of visits by type of treatment. In reality, the structural changes in the public health care system in the reporting period have resulted in the decrease in institutional care and the increase in outpatient (open care) specialist medical care. An estimated 50 per cent of the population are currently covered by the "personal physician system", which has reduced waiting periods in the public sector so that it is now usually possible to get treatment within a few days. Waiting lists for operations at public hospitals have shortened, though for certain treatments the trend was the reverse. In Finland, organization of such types of health services as medical care, dental care, school health care and occupational health care falls under the responsibility of the local authorities, which are free to fix the amount of charges taken for each service. In practice, while the actual charges taken by different local authorities may vary greatly, most local authorities charge the maximum allowed by the Decree on social welfare and health care charges. If the charges perceived cause certain categories of low-income people unreasonable financial hardship, the local authority can decide to reduce the charge or to grant income support to cover the cost of medical care.

Generally, according to the report, households accounted for 21.5 per cent of total health care expenditure in 1996, while the public funding was distributed as follows: central government 24.3 per cent, local authorities 36.8 per cent and Social Insurance Institution (sickness insurance) 13.6 per cent. The Government further indicates that, with the improving economic situation, use of private health services has increased. The level of compensation for these services is prescribed by the Sickness Insurance Act as follows: for physicians' fees it is 60 per cent of the rates approved by the Social Insurance Institution (any part of the fee above the approved rate is not compensated); for medical examinations and treatment ordered by physicians it is 75 per cent of the part of the approved fees per medical order after deducting FIM70 per treatment constituting the patient's "own risk"; for medicines prescribed by physicians the basic compensation is 50 per cent per purchase over and above the deductible sum of FIM50. The detailed statistics supplied by the Government for the period 1994-97 show, however, that in practice the average level of compensation, having slightly increased, is still far below the prescribed rates of compensation for the abovementioned types of health services, attaining respectively only 39.1 per cent of physicians' fees, 42.8 per cent of the cost of medical examinations and treatment, and 39.7 per cent of the cost of medicines. Since the beginning of 1996, in principle 75 per cent (previously 90 per cent) of dental check-up and treatment costs and 60 per cent of other costs at approved rates have to be covered in the case of those born in and after 1956. In practice though, it amounted to only 49 per cent in 1997, down from 55.6 per cent in 1994. While referring to legislative measures taken at the end of 1997 to restrain rising costs of medicines, the Government states also that, from January 1999, basic compensation paid is to be limited and subjected to specific clarification in case of certain diseases and expensive medicines. Finally, the maximum amount of compensation in excess of which medicine costs are compensated in full has been raised to FIM3,240.43 in 1998.

The Committee notes this information together with the statistical data on the volume of medical care provided by the public and the private sectors. It notes that no significant sign of the improvement of the public health services could be observed from this information and data, and that, moreover, the Government does not make any attempt in its report to contest the allegations made by the trade union organizations concerning progressive decline of the public health system in the country with the concurrent increase in the cost of the private medical services. The information and data provided in the report with regard to the actual level of compensation for private medical services show that it has not improved over the last years and remains far below the percentage prescribed in the legislation. With regard more particularly to the level of compensation of the cost of prescribed medicines, the Committee notes that, according to the trade union organizations, the part paid by the beneficiary of the cost of medicines is becoming unreasonable for the low-income categories of the population, reducing their chance for getting all the necessary treatment. In this respect, the Committee once again wishes to draw the Government's attention to the principle laid down in *Article 17* of the Convention, according to which the rules concerning sharing by the beneficiary or his breadwinner in the cost of medical care should be so designed as to avoid hardship and not to prejudice the effectiveness of medical and social protection. In the light of this provision of the Convention and the abovementioned allegations of the trade union organizations, the Committee would like the Government to explain in detail in its next report, with the help of appropriate statistical information if possible, what measures are being taken or contemplated, including by the different local authorities to which the Government refers in its report, to alleviate hardship that might be caused to the low-income categories of the population by the inadequate level of actual compensation of private medical care and medicines.

The Committee further notes that the trade union organizations stress in their comments the fact that reduction in the quantity and quality of the preventive and basic health care services and staff due to financial cuts goes hand in hand with the non-fulfilment by the State and the local authorities of their supervisory functions in this area due to lack of competent staff and corresponding data. This situation leads to the growing ineffectiveness of the health care system as a whole, manifested in the impractical placement of patients, longer waiting lists, staff overstrain and the shift of burden from general to specialized medical care. It may be further aggravated by the fact that important decisions on health care systems and compensation are decentralized to the local authorities and taken, according to SAK, without a proper long-term perspective and more under short-term budgetary and electoral pressures. The Committee would like the Government to address these concerns in its next report in the light of any long-term policy concerning the development of the national health care and compensation system which may have been established. In this connection, it wishes to remind the Government of its general responsibility under *Article 30* of the Convention, for the due provision of the medical benefits of the quantity and quality specified in *Article 13*, as well as for the proper administration and supervision of the institutions and services concerned. The fulfilment of both these responsibilities, which provide the best existing safeguards against ineffectiveness and decline of the social security schemes, calls for the adoption of special long-term planning measures, including periodic actuarial studies and calculations concerning financial equilibrium, taking into account all the resources allocated by the state and local authorities for these purposes. The Committee would be grateful if the Government's next report would contain detailed information, supported by corresponding studies and statistical data on the comparative development of the public and private health care services, on any such measures taken by the state and local authorities tc discharge their general responsibilities under *Article 30* of the Convention with respect to medical care. Please indicate also the number of inspections and supervisory visits in health services carried out by the responsible authorities and their outcomes.

2. *Extending coverage of dental care to all adult population.* The Government states that, following an amendment of the Sickness Insurance Act which took effect on 1 October 1997, those born before 1956 can claim compensation once every three years for dental check-ups and preventive care. This amendment is for a fixed period and is only effective until 31 December 1999. Because of problems with public finances, a decision on a planned amendment concerning payment of dental care compensation to the entire population without any age limits has been postponed until the end of 1999. The Committee once again hopes that the Government will be able to adopt the said amendment in the near future, so as to extend coverage for dental care to the whole of the adult population, and will not fail to indicate the progress made in this respect in its next report.

3. *Articles 18 and 26, paragraph 3, of the Convention.* The Government indicates in its report that the grounds for granting the daily sickness allowance were changed at the beginning of 1996. The minimum amount of the daily allowance was abolished and the allowance is no longer paid at all if earnings are lower than the statutory limit (FIM5,170 in 1998). However, it can be paid to those who have no, or only a small, income on a discretionary basis, if the disability caused by the illness lasts over 60 calendar days without interruption. The 60-day waiting period is not applied in the case of discretionary rehabilitation allowance.

The Committee notes this information and would like the Government to provide a copy of the legislative provisions in question. It also notes that the above statutory limit of earnings, below which no daily sickness allowance is payable, appears to be rather high compared to the average monthly pay of an industrial employee which, according to the report, amounted to FIM9,952 in the last quarter of 1996, and might result in substantial numbers of low-paid or partially employed persons being refused this allowance. The Committee would like to recall in this respect that, according to *Article 18* of the Convention, sickness benefit shall be paid to all persons protected covered by *Article 19* in case of their incapacity for work resulting from sickness and involving suspension of earnings, as defined by national legislation. With respect to the 60-day waiting period before the daily allowance could be paid on a discretionary basis, it also recalls that *Article 26, paragraph 3*, of the Convention stipulates that, where the national legislation provides that sickness benefit is not payable for the initial period of suspension of earnings, such period shall not exceed three days. The Committee would therefore ask the Government to indicate in its next report how the protection guaranteed by these provisions of the Convention is ensured in respect of persons protected whose wages are below the said statutory limit.

4. *Article 27.* The Committee notes that, according to the report, the burial grant paid under the National Pension Act was abolished in 1996. However, it can now be applied for under the Accident Insurance Act; in other cases, the local authority can grant income support for burial costs. The Committee would like the Government to indicate the relevant provisions of the Accident Insurance Act and to explain whether they are sufficient to guarantee payment of a funeral benefit in all cases covered by this Article of the Convention.

Libyan Arab Jamahiriya (ratification: 1975)

With reference to the comments which it has been making for a number of years, the Committee notes with regret that the Government's report has not been received for the sixth consecutive time. It recalls that the last information supplied by the Government contained only partial responses and did not include the statistics called for in the report form adopted by the Governing Body. Without this information it is impossible for the Committee to assess the extent to which effect is given to the provisions of the Convention and it once again raises the matter in a direct request in the hope that the Government will not fail to supply the information requested.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Czech Republic, Denmark, Ecuador, Libyan Arab Jamahiriya, Uruguay.*

Convention No. 131: Minimum Wage Fixing, 1970

Bolivia (ratification: 1977)

The Committee notes with regret that the Government's report contains no reply to previous comments. It must therefore repeat its previous observation, which read as follows:

> In its previous comments, the Committee referred to the report of the Committee set up to examine the representation made by the Confederation of Private Employers of Bolivia under article 24 of the ILO Constitution (*Official Bulletin*, Vol. LXVIII, 1985, Series B, special supplement 1/1985). It noted the Government's reference to section 62 of Supreme Decree No. 21060 of 30 August 1985 which guarantees the fixing of wages through collective bargaining and pointed out that the free determination of wages by negotiation between employers and workers would not appear to constitute an adequate minimum wage-fixing system in the meaning of the Convention, in so far as it does not cover all the groups of wage-earners whose terms of employment are such that coverage would be appropriate.
>
> The Committee notes that the Government repeats its reference to Supreme Decree No. 21060, and states in reply to the previous comments that Supreme Decree No. 19462 of 15 March 1983 was repealed in virtue of section 170 of Supreme Decree No. 21060 and that the National Wages Council was not consulted, since Supreme Decree No. 11706 of 16 August 1974, which set up this Council, was also of transitional nature. The Committee also notes Decree No. 23093 of 16 March 1992, section 2 of which fixes a new rate of the national minimum wage applicable to both public and private sectors.
>
> The Committee recalls that the conclusion of the Committee set up to examine the abovementioned representation, which was adopted by the Governing Body, was that measures should be taken by the Government to ensure consultation with both employers' and workers' organizations in connect with the establishment, operation and modification of the minimum wage-fixing machinery *(Article 4, paragraph 2, of the Convention)*, as well as the participation of these organizations in the operation of such machinery *(Article 4, paragraph 3)*. The Committee requests the Government to communication information on any measures taken or envisaged for such consultation and participation.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Costa Rica (ratification: 1979)

In its previous comments the Committee asked the Government to continue to provide information on the measures adopted to abolish the practices which extend the maximum working day beyond the limits fixed within the constitutional frame thereby ensuring that the minimum hourly wage rates for road transport workers are observed. The Committee notes with satisfaction the Government's statement in its last report that on 2 September 1998 Regulation N-27298-MTSS on the "Working Conditions and Occupational Health of Bus Drivers" was adopted, which prohibits any extension of the working day beyond the limit established in sections 9(a) and 17 thereof.

The Committee is also addressing a request directly to the Government on other issues.

Latvia (ratification: 1993)

Further to its previous comments the Committee notes with interest the information supplied by the Government in its report according to which:

- the Latvian Free Trade Union Federation (LBAS) concluded two general agreements with the Latvian Employers' Confederation on minimum remuneration for work on 27 April 1998 and on 5 May 1999;
- 22 agreements covering 30 per cent of wage-earners have been concluded between sectorial trade unions and sectorial associations of employers which fix guarantees of minimum remuneration for work of a much higher level than the national minimum monthly wage.

The Committee takes note of the Government's information that, in the period of time from 1990 to 1998, the rise of consumer prices (inflation) has been almost twice as rapid as the rise of workers' remuneration. The Committee therefore hopes that the Government will continue providing information on the fixing and adjustment of minimum wages and on the measures adopted or envisaged to ensure the direct participation of representatives of organizations of employers and workers concerned, on an equal basis, in the machinery for fixing or adjusting minimum wages.

The Committee raises other points in a direct request to the Government.

Spain (ratification: 1971)

Article 1, paragraph 3, of the Convention. The Committee notes with satisfaction the adoption of Royal Decree No. 2015/97, establishing a minimum wage without distinction based on age and for equality of wages between those over and under 18 years.

Article 3. The Committee notes the adoption of Royal Decrees Nos. 2015/97 and 2817/98 which respectively determine inter-occupational minimum wages for 1998 and 1999. The Committee also takes note of the Government's indication that, when determining the inter-occupational minimum wage (SMI), it will take the following into account: the consumer price index; national average productivity; the increase in contribution of the labour force to national income and the general economic situation, as established by section 27.1 of the Workers Statute. The Committee trusts that the Government, in determining minimum wages or the frequency of revisions thereof, will take care to ensure to workers a minimum wage that will provide a satisfactory standard of living for them and their families, in conformity with subparagraph (a) of this provision of the Convention.

Article 4, paragraph 2. The Committee notes the indication of the Government in its report that the SMI is not fixed by an automatic decision based on a calculation of certain factors, but entails an economic policy decision, and it is precisely for this reason that consultations with the social partners take place, as provided for by section 27.1 of the Workers Statute. In this connection the Committee would like to recall that, as stated by the tripartite committee established to examine the representation made by the Trade Union Confederation of Workers' Committees in its report submitted to the 243rd meeting of the Governing Body (GB.243/6/22), the consultations with the social partners referred to in this provision of the Convention are not a simple formality; their purpose is to enable account to be taken of the opinion of the social partners at the time of taking the decision. As the Committee pointed out in the General Survey on tripartite consultation, the term "consultation" has a different connotation both from mere "information" and from "codetermination", and it should enable influence to be exerted in decision taking. The Committee hopes that the Government will supply more detailed information in its next report on consultations with the social partners, including for example the existence of discussions of the replies provided by the latter, or other procedures the aim of which is to ensure "full" consultations as required by this provision of the Convention.

Uruguay (ratification: 1977)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation on the following matters:

> 1. The Committee takes note of the Government's report, as well as the statement made by a Government representative to the Conference Committee on the Application of Standards in 1998 and the discussions which took place on that occasion.
>
> *Consideration of the needs of workers and their families in determining minimum wages*
>
> 2. In its previous comments, the Committee requested the Government to indicate to what extent and in what manner the needs of workers and their families are taken into consideration in determining the level of minimum wages, in accordance with *Article 3 of the Convention.*
>
> 3. The Committee observes that, with regard to minimum wage fixing, the Government's report cites a number of provisions of Act No. 10449 which only ensures "a standard of living *for the worker* sufficient to meet his physical, intellectual and moral needs". The Committee wishes to point out that this provision makes no reference to the needs of workers *and their families*, as required by *Article 3* of the Convention. Furthermore, the Government does not explain the specific manner in which the needs of workers and their families are taken into consideration in practice for the purpose of fixing minimum wages; for example, is the minimum wage calculated on the basis of a basket of essential goods? Is the minimum cost of education, health care and housing taken into account? The Committee strongly hopes that the Government will be able to indicate in its next report the measures taken to ensure that *the needs of workers and their families* are taken into consideration for the purpose of minimum wage fixing, as well as indicating how in practice those needs are estimated.
>
> *Lack of consultation of the employers' and workers' representatives concerned in the determination of minimum wages*
>
> 4. In its previous comments, the Committee – having noted the overall persistence, over many years, of the practice of unilateral determination by the Government of the inter-occupational minimum wage and the minimum wages of rural and domestic workers – expressed the hope that the Government would soon be able to indicate the measures taken to ensure full consultation with the representative organizations of employers and workers concerned in fixing the national minimum wage and the minimum wages of rural and domestic workers, in accordance with the provisions of *Article 4, paragraph 2*, of the Convention.
>
> 5. In reply to these comments, the Government indicates that the national minimum wage is not applied in practice to determine the minimum payment for work, since it is in reality simply a reference value for the calculation of certain social security benefits.

According to the Government, this was confirmed by the statement in 1997 of the Inter-Union Assembly of Workers – National Convention of Workers (PIT-CNT), that "… the minimum wage is only a political concept, devoid of substance, which serves basically to regulate a number of social security measures (including the amount of family allowances and retirement pensions)". This feature of the national minimum wage in Uruguay means, according to the Government, that "the wage should not be analysed from the viewpoint of the Convention".

6. The Committee, noting the Government's detailed reply, recalls that, under *Article 4, paragraph 2*, of the Convention, provision must be made by the ratifying State, in connection with the establishment, operation and modification of wage-fixing machinery, for full consultation with the representative organizations of employers and workers concerned, *or, where no such organizations exist, representatives of employers and workers concerned*. These provisions do not impose an obligation to negotiate, but do impose an *obligation to consult*. In the absence of representative organizations of employers and workers, the Government has an obligation to consult *representatives of employers and workers concerned*. The Committee expresses the firm hope that the Government will adopt the necessary measures in the near future to *consult representatives of employers and workers concerned* for the purpose of establishing, applying and adjusting minimum wages.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future to give effect to the provisions of the Convention.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Bolivia, Costa Rica, Latvia, Niger*.

Convention No. 132: Holidays with Pay (Revised), 1970

Requests regarding certain points are being addressed directly to the following States: *Czech Republic, Latvia, Rwanda*.

Convention No. 133: Accommodation of Crews (Supplementary Provisions), 1970

Liberia (ratification: 1978)

The Committee notes that since the entry into force of the Convention in 1991, the Government has never communicated a first report. The Committee urges the Government to provide forthwith a detailed report in conformity with the report form adopted by the Governing Body.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Italy, Nigeria*.

Convention No. 134: Prevention of Accidents (Seafarers), 1970

Costa Rica (ratification: 1979)

In comments which the Committee has been making for several years, the Committee has pointed out that national legislation contains no special provisions on accident prevention for seafarers within the meaning of the Convention. The Committee recalls that it has periodically expressed the hope that the Government would enact occupational health regulations, envisaged under section 283 of the Labour Code, for all seafarers who are employed in any capacity on board a ship, other than a ship of war, and ordinarily engaged in maritime navigation, as provided for under *Article 1, paragraph 1, of the Convention*. The Committee is therefore bound once again to recall that in 1988 the Government reported to the Office that the regulations in question were being drafted.

Consequently, the Committee urges the Government to adopt shortly the necessary provisions concerning the prevention of occupational accidents for seafarers (*Articles 4 and 5* of the Convention), the appointment of suitable persons or the establishment of joint committees *(Article 7)* and the prevention of occupational accidents programmes *(Article 8)*.

The Committee also notes the Government's statement with regard to the absence of a register in which data and reports issued by the inspection services on seafarers are recorded. Nevertheless, the Committee hopes that the Government will take the necessary steps to collect information on the number of workers covered by the legislation and the number of occupational accidents reported, as required under *Part V of the report form*.

United Republic of Tanzania (ratification: 1983)

The Committee takes note of the indications provided by the Government in its report.

The Committee notes with regret that neither responses nor appropriate measures have been given or adopted respectively in relation to the application of the provisions of the Convention. The Committee takes note of the indication of the Government according to which due to financial constraints or to circumstances beyond its control the measures stated in its previous report have not been adopted. Thus, the Committee is bound to reiterate most of the matters raised in its previous direct requests.

Article 1, paragraph 3, of the Convention. In its previous comment, the Committee has noted that, according to the Government's report, the provisions of the Convention are applied by means of the Factories Ordinance (Cap. 297) and the Dock Rules 1692 GN 444 (issued under section 55 of the Factories Ordinance). However, the Committee notes that the provisions cited by the Government are only applicable to the processes of loading and unloading ships in ports and harbours (section 58 of the Factories Ordinance and section 2 of the Dock Rules). The Committee is bound to note that the Convention is applicable to all accidents to seafarers arising out of or in the course of their employment, such as accidents arising on open sea. The Committee refers in this context to its remarks below concerning *Article 4* of the Convention.

Article 2, paragraph 4. The Committee takes note of the indication of the Government in its report that in the case of the accident of the "MV Bukoba" a formal investigation was undertaken. The Committee also reminds the Government that investigations according either to section 7 of the Accidents and Occupational Diseases Notification Ordinance or section 266(1) of the Merchant Shipping Act, of 1967 are optional whilst the Convention provides for mandatory investigations into the causes and circumstances of occupational accidents resulting in loss of life or serious personal injury. Consequently, the Committee hopes that the Government will indicate in its next report the measures adopted or envisaged to apply this provision of the Convention.

Articles 3 and 8. Referring to its previous comments, the Committee recalls that there are no specific provisions in the legislation respecting the prevention of industrial accidents and occupational diseases. This issue is only covered in part by the Dock Rules of 1962 and the Factories Ordinance (Cap. 297) of 1950. The Government indicated in its previous report that these two instruments were being revised in view of the need to undertake research on the general situation as regards industrial accidents and the risks that are peculiar to maritime employment and to establish accident prevention programmes and implement them with the cooperation of organizations of shipowners and seafarers. The Committee observes that due to financial constraints, the Government is not able to carry out the mentioned revision. The Committee hopes that the Government will be in a position in the near future to revise the national legislation in order to bring it into conformity with the provisions of the Convention.

Article 4, paragraphs 2 and 3(b), (h) and (i). The Committee noted the Government's indications that no provisions have been adopted with a view to preventing accidents which are peculiar to maritime employment, and on its intention to revise the national legislation in this respect. The Committee notes that this revision has not been carried out due to circumstances beyond control. The Committee hopes that this revision will be carried out without delay and requests the Government to inform it of any development in the situation in this respect.

Article 6, paragraph 3. The Committee has previously noted the information on the Government's intention to train the inspection and enforcement authorities so that they are familiar with maritime employment and its practices. The Committee observes that due to financial constraints the training project was not carried out. The Committee hopes that the Government will be able to adopt the necessary measures to give effect to this provision of the Convention and that the training courses for the abovementioned authorities will be implemented in the near future.

Article 6, paragraph 4. In its previous report, the Government reported that, when the legislation is revised, taking into account the need to incorporate provisions on the prevention of accidents to seafarers, copies of these provisions will be brought to the attention of seafarers. The Committee requests the Government to indicate the manner in which it envisages bringing to the attention of seafarers copies or summaries of the provisions in question.

Articles 8 and 9. The Government indicated in its report that although no information is available, instructions were provided wherever guest lecturers from relevant institutions were invited to lecture at institutes such as, among others, the Occupational Health and Safety of the Factory Inspectorate in the Department of Labour. In addition, according to the Government's report received in 1990, Bandari College, situated in Dar es Salaam, is a vocational training centre where seafarers of all categories can be instructed and informed of risks to their health and safety. The Committee recalls that these Articles of the Convention provide for the implementation of programmes for the prevention of occupational accidents by the competent authority with the active cooperation of shipowners' and seafarers' organizations or their representatives and other appropriate bodies, and for the establishment of national or local joint accident prevention committees or ad hoc working parties made up of representatives of the social partners.

Please indicate whether instruction in the prevention of accidents and the protection of health in employment is included in vocational training programmes and whether seafarers are provided with instruction on a regular basis.

The Committee expresses once again the firm hope that the Government will be able to supply information in its next report on the measures which have been taken expressly to bring its legislation into conformity with the Convention. In view of the fact that this situation has prevailed over a considerable period of time, the Committee suggests that the Government might wish to make use of the technical assistance of the International Labour Office to resolve the matter.

* * *

In addition, a request regarding certain points is being addressed directly to *Brazil*.

Convention No. 135: Workers' Representatives, 1971

Costa Rica (ratification: 1977)

The Committee notes the Government's report. The Committee recalls that the Inter-Confederal Committee of Costa Rica (CICC) submitted comments in respect of the restricted number of union representatives benefiting from employment protection under section 367 of the Labour Code (one leader for the first 20 union members and one for each subsequent 25 workers, to a maximum of four). The Committee noted the effectively restricted number of protected union representatives in its earlier comment, and considered that the protection should be extended to a greater number of representatives; otherwise to guarantee protection generally for all workers, including their representatives, against anti-union discrimination (as in the recent Bill put before the Legislative Assembly). The Committee notes from its report that the Government is envisaging including this possibility within the framework of national collaboration, and hopes that its next report will contain information on all developments in this respect.

Gabon (ratification: 1975)

The Committee notes with regret that the Government's report has not been received.

The Committee notes the communications of the Confederation of Gabonese Free Trade Unions (CGSL) and the Federation of Energy, Mines and Allied Enterprises (FLEEMA) concerning the application of the Convention. The Committee regrets that the Government has not provided its comments in this respect. With respect to the allegations concerning the refusal of the Dragage enterprise to allow the trade unionists of FLEEMA to enter the closed off construction sites in order to make contact with the workers, the Committee requests the Government to inform it of the measures that it has taken to permit trade unionists of FLEEMA to communicate with the workers of Dragage.

Iraq (ratification: 1972)

The Committee takes note of the Government's report.

With regard to the application of *Article 2 of the Convention*, the Committee notes with interest that section 27(7) of the Trade Union Organization Act No. 52 of 1987 provides for the trade union executive committee members to have time off in order that they may devote themselves to trade union activities and that section 138(1) of the Labour Code stipulates that workers' representatives be fully released from work to carry out their functions in labour inspection committees.

The Committee again requests the Government to provide copies of the agreements concluded by trade unions and employers to which the Government had referred in its previous report and which would afford facilities to workers' representatives.

Sri Lanka (ratification: 1976)

The Committee notes the Government's report. In its previous comments, the Committee had drawn the Government's attention to the importance of effective protection of workers' representatives against any act prejudicial to them, including dismissal, based on their status or activities as workers' representatives and to the need to adopt measures in this regard beyond the procedures provided for in the Termination of Employment of Workmen (Special Provisions) Act, 1971, which only allows the Ministry of Labour to refer individual disputes to arbitration and the Industrial Disputes Act, 1967, which only establishes appeals procedures further to which courts may make decisions on the basis of "just and equitable" criteria. The Committee notes from the Government's report that a draft Bill on employment and industrial relations ensuring full conformity with *Article 1 of the Convention* is under consideration by a Cabinet subcommittee. The Committee trusts that the future legislation will ensure the effective protection of workers' representatives. It requests the Government to inform it in its next report of any progress made in the adoption of these amendments.

United Republic of Tanzania (ratification: 1983)

The Committee takes note of the Government's report. With regard to its previous comments, the Committee observes with satisfaction that Act No. 20 of 1991 which established the Organization of Tanzanian Trade Unions (OTTU) as the sole body representative of all employees in the United Republic of Tanzania has been repealed by the Trade Unions Act, 1998. The Committee asks the Government to keep it informed of relevant questions raised by the application of the new Act.

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In addition, requests regarding certain points are being addressed directly to the following States: *Cyprus, Latvia, Mali, Republic of Moldova, Sri Lanka.*

Convention No. 136: Benzene, 1971

Bolivia (ratification: 1977)

With reference to the comments it has been making for 15 years, the Committee notes the information supplied by the Government in its report. The Government indicates that it has completed elaboration of draft regulations concerning the use of asbestos in conditions of safety, and that it will undertake the drafting of corresponding regulations for the construction sector, of manuals on the establishment of joint occupational safety and health committees and on the establishment of occupational safety and health departments within enterprises. The Committee further notes that according to the Government, despite the absence of specific regulations regarding the use of benzene, implementing measures have been adopted based on the provisions of the general law in force regarding occupational safety and health which regulates the handling and use of various chemical substances. The Government further indicates that the Manifesto on Environmental Impact, as well as safety regulations in undertakings and plans setting out eventualities in cases of occupational hazards are currently applied in all industries. The Committee requests the Government to indicate precisely how the abovementioned texts apply the provisions of the Convention.

The Committee notes that since its first report in 1982, when the Government had announced that it will take the necessary measures to apply the provisions of the Convention, no measures have as yet been adopted in this respect. The Committee therefore recalls that measures are necessary to give application to the main provisions of the Convention, in particular *Article 1(b) of the Convention* (the protective measures elaborated must apply not only to benzene but also to products the benzene content of which exceeds 1 per cent by volume); *Article 2* (whenever harmless or less harmful substitute products are available, they shall be used instead of benzene or products containing benzene); *Article 4, paragraphs 1 and 2* (prohibition of the use of benzene and of products containing benzene in certain work at least making use of benzene as a solvent or diluent, except where the process is carried out in an enclosed system or where there are other equally safe methods of work); *Article 6, paragraphs 1, 2 and 3* (measures shall be taken to prevent the escape of benzene vapour into the air of places of employment, and concentration of benzene in the air of the places of employment must not exceed a ceiling value of 25 parts per million; directions must be issued on carrying out the measurement of the concentration of benzene in the air of places of employment); *Article 7, paragraph 1* (work processes involving the use of benzene or of products containing benzene shall as far as practicable, be carried out in an enclosed system); and *Article 11, paragraphs 1 and 2* (prohibition to employ pregnant women, nursing mothers and young persons under 18 years of age in work processes involving exposure to benzene or products containing benzene). The Committee renews its hope that the Government will take the necessary measures in the near future to apply the Convention.

Article 9. The Committee again notes from the Government's report that the draft regulations concerning medical services include, as part of the general routine, medical examinations prior to employment, during employment and thereafter. The Committee understands from the Government's statement that these medical examinations are not provided for under specific legislation, but are carried out by the "Superintendency of Occupational Health" and recorded on forms established by the Ministry of Labour for notification of occupational accidents. The Committee recalls that this Article of the Convention provides for specific medical examinations prior to employment and thereafter periodically for all workers who are to be employed in work processes involving exposure to benzene or to products containing benzene, to establish their fitness for such employment. The Committee trusts that the draft regulations concerning medical services will contain provisions to ensure that the required examinations are carried out to guarantee the application of this Article of the Convention. The Committee requests the Government to provide information regarding the adoption of the abovementioned draft as soon as possible.

[The Government is asked to report in detail in 2001.]

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In addition, requests regarding certain points are being addressed directly to the following States: *Côte d'Ivoire, Finland, Greece, Guinea, Hungary, India, Iraq, Kuwait, Malta, Nicaragua, Syrian Arab Republic, Zambia.*

Convention No. 137: Dock Work, 1973

Brazil (ratification: 1994)

1. Further to its previous observation, the Committee notes the information contained in the two communications addressed to the ILO by the Trade Union of Stevedores of Santos, São Vicente, Guarujâ and Cubatão, and the Government's detailed comments in reply to the above observations.

2. As the Committee's previous comments indicate, the issues which arise under the Convention concern the practical application of Act No. 8630 of 23 February 1993 and the implementation of an overall scheme to modernize the port sector through an Integrated Programme for the Modernization of National Ports (PIMOP). The trade unions have previously made a number of complaints concerning alleged precarious employment of casual workers who are registered despite the safeguards contained in the legislation; the failure of a number of private shipowners to negotiate and conclude collective labour agreements on port workers; the refusal of some private shipowners to have recourse to workers registered in the Manpower Management Agencies (OGMO) and finally the alleged apathy of the Government regarding these issues.

3. The Trade Union of Stevedores of Santos, São Vicente, Guarujâ and Cubatão in its recent communication states that the tendency for the employment of dockworkers to become more precarious has not been reversed. Furthermore, the trade unions continue to encounter the refusal of private shipowners to conclude collective agreements on port workers. The trade union adds that the information provided by the Government to the 86th Session of the International Labour Conference concerning the establishment of a "roving mediation unit" in the port sector is false and that, in practice, the supervisory body which has been established does not defend the interests of dockworkers.

4. In its detailed communication and reply, the Government indicates that its representative at the said International Labour Conference through an error of terminology and interpretation, made reference to a roving mediation unit as opposed to

a roving supervisory unit called the Special Group for the Roving Supervision of Dock Labour (GEFMPT).

5. With regard to the operation of GEFMPT, the Government indicates that it was founded under the auspices of the Ministry of Labour and Employment with coordination and assistance through other bodies, and its function is to protect and promote the rights of dockworkers and one of its implicit objectives is to promote a direct understanding and communication between the parties in dispute. Further, the Government indicates that the purpose of the GEFMPT's activities has always been to serve as a means of guaranteeing workers' rights and that anybody alleged to have failed to comply can submit a complaint by administrative appeal setting out the grounds of complaint. In addition the Constitution gives the interested party the right to invoke the jurisdictional protection to protect his interests in the disputed legal situation.

6. In addition the Government refers to having stepped up its activities particularly with regard to implementing measures to encourage and promote voluntary negotiation using collective agreements. It referred to the issuing of Interim Measure No. 1.750-47 of 11 February 1999 which in conjunction with Decree No. 1.572 of 28 July 1995, regulates mediation on collective bargaining.

7. The Government also comments on why in its view collective bargaining between the worker and the employer dock union bodies does not "occur under optimum conditions". The Government cites in particular that notwithstanding the Labour Tribunal decisions which recognize the legal function and obligation of the OGMOs to allocate casual workers by shifts, the trade unions representing dockworkers still objected to this process by arguing that the legislation did not mention the term "to allocate" but instead referred to "administer the supply of labour", which they claimed was different. In order to remove any doubts as to the function of OGMOs, the Government issued Interim Measure No. 1.728-19 of 11 November 1998 which specifically referred to "the allocation of workers by shifts will be carried out by the labour administrative body". The Government views the resistance of the trade unions to such allocation as reflecting a determination on their part to maintain a monopoly over the supply of labour.

8. The Committee understands that the modernization of national ports is a difficult and delicate matter which requires dialogue between all the relevant parties. Appreciating all the matters which have been stated by the Government, the Committee again requests that, in accordance with the requirements of *Article 2, paragraph 2, of the Convention*, the Government indicate in its next report the manner in which the allocation of dockworkers, particularly casual workers, assures minimum periods of employment or a minimum income.

9. It also requests the Government to indicate the measures it has adopted or intends to adopt to encourage greater cooperation between port operators and their organizations and workers' organizations, in accordance with the requirements of *Article 5*, and the measures which have been taken or are envisaged to overcome the difficulties which have once again been alleged to exist in concluding collective labour agreements. The Committee also requests information as to the effectiveness of the GEFMPT in fulfilling its role in practice. The Government is finally requested to indicate, in accordance with *Part V of the report form*, the manner in which the Convention is applied in practice, with the inclusion for example of the available information on the

number of dockworkers on the registers kept by the OGMOs in certain organized ports and changes in their numbers over the period covered by the report, as well as by providing examples of the disputes referred to the GEFMPT.

France (ratification: 1977)

The Committee notes with regret that the Government's report has not been received for the third consecutive year. It must therefore repeat its previous observation which read as follows:

> 1. The Committee notes the information supplied by the Government and the comments of the National Association of Dock Work Industries in French Ports (UNIM). It notes in particular the adoption of Act No. 92-496 of 9 June 1992 amending Act No. 47-1746 of 6 September 1947 on the organization of dock work in sea ports, and the conclusion of the national collective agreement on dock work in 1993-94. As a result of the above reforms, most professional dockworkers who used to do casual work are now employed under a monthly scheme by cargo-handling companies on the basis of an indefinite contract. The Government also indicates that some professional dockworkers are still employed on a casual basis but that this scheme will gradually disappear since no new registration cards are being issued.
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> 2. The UNIM considers that the Convention is obsolete in view of technological developments in the port industry and the reforms in the organization of work in the port sector. It draws attention in particular to the provisions of the French legislation which restrict both the choice by cargo-handling companies of the staff they employ and the procedure for economic terminations.
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> 3. The Committee refers to the tripartite meeting on social and labour problems caused by structural adjustment in the port industry held in Geneva in 1996 and recalls that one of the meeting's conclusions was that the ILO must continue to promote the ratification and application of the relevant international labour standards. The Committee would be grateful if the Government would continue to provide information on the application of the provisions of the Convention, in the light of the results of the above meeting, and the comments made by the UNIM. The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

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In addition, requests regarding certain points are being addressed directly to the following States: *Afghanistan, United Republic of Tanzania.*

Convention No. 138: Minimum Age, 1973

Nicaragua (ratification: 1981)

The Committee notes the adoption of the Code on Childhood and on Adolescence (Act No. 297, in force from 27 November 1998).

Further to its previous observations, the Committee notes with interest the creation of the National Commission for the Progressive Elimination of Child Labour and the Protection of Minors in Employment, of which the 1998 annual report was supplied by the Government. It also notes the implementation of the National Action Plan for the

Elimination of Child Labour. According to the report from the National Commission, various activities have been undertaken, including five action programme projects undertaken with IPEC participation, especially the programmes to eliminate child labour in waste tips and the sexual exploitation of children in the commune of Léon. This policy bears witness to the Government's desire to introduce practical measures to combat child labour, and the Committee encourages it to increase the geographical area covered. It requests the Government to continue to communicate the results of these programmes and in particular the reports of the subcommissions on monitoring and evaluation of the National Commission, as well as other available information regarding the application of the Convention such as the results of the labour inspection, of penalties imposed in respect of infringements and statistical data on child labour.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Antigua and Barbuda, Iraq, Libyan Arab Jamahiriya, Nicaragua, Niger.*

Convention No. 139: Occupational Cancer, 1974

Nicaragua (ratification: 1981)

The Committee notes with interest the adoption and publication of the Fundamental Act of 13 February 1998 respecting the regulations for and the supervision of pesticides, toxic and other dangerous substances. In this regard, the Committee is addressing a request regarding certain points directly to the Government.

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In addition, requests regarding certain points are being addressed directly to the following States: *Brazil, Ecuador, Nicaragua.*

Convention No. 140: Paid Educational Leave, 1974

Requests regarding certain points are being addressed directly to the following States: *Azerbaijan, Brazil.*

Convention No. 141: Rural Workers' Organisations, 1975

Afghanistan (ratification: 1979)

The Committee notes with regret that for the third year in succession the Government's report has not been received.

In its previous comments the Committee recalled that, under *Article 3, paragraph 2, of the Convention,* rural workers' organizations are to be independent and voluntary in character and to remain free from all interference, coercion or repression. In this regard, the Committee noted with concern that several provisions of the Labour Code conferred prerogatives on the single trade union designated by name as "the Central Council of the DRA's Trade Unions", particularly in respect of the preparation of legislation and appointments to certain jobs (section 148(2) and section 3(4) of the Code). Furthermore, it noted that the objects of the Code included the consolidation of labour discipline and the implementation of production plans (section 1(4) of the Code).

The Committee had noted the information provided by the Government concerning the role of cooperatives generally under the Cooperative Law of 1981 and the voluntary nature of their membership, free from any form of coercion or pressure. It also duly notes that, due to the special conditions prevailing in the country, the Government has had difficulty collecting information from the concerned organizations. The Government is nevertheless requested to provide, in its next report, a copy of the recent statutes of the Peasant's Cooperative Union of Afghanistan and to provide statistical information concerning the number of its members as soon as this is available.

The Government is requested to indicate, in its next report, any measures taken to encourage rural workers' organizations to play their role in economic and social development free from all interference of any sort as a result of this cooperation.

Costa Rica (ratification: 1991)

The Committee notes the Government's report.

1. The Committee recalls that its earlier comments referred to the exclusion of agricultural enterprises and those raising cattle permanently employing no more than five workers from the scope of the 1943 Labour Code (section 14(c)). In this respect, the Committee recalls that under the Convention the workers in question also enjoy the right to organize and bargain collectively, as well as adequate protection for the exercise of these rights. The Committee asks the Government to take steps to delete specifically this section of the Labour Code and ensure respect of these rights, and to provide information in its next report on all measures adopted accordingly.

2. Moreover, the Committee recalls that its previous comments also referred to the prohibition of the right to strike in the agricultural, cattle and forestry sectors (section 369(b) now section 376(b) of the Labour Code) and noted that in August 1997 the Government had submitted to the Legislative Assembly a Bill revoking this prohibition. In this connection, the Committee in its examination of the application by Costa Rica of Convention No. 87, noted with interest that in February 1998 the Constitutional Chamber of the Supreme Court of Justice declared the prohibition of the right to strike in the public sector and in the agricultural, cattle and forestry sectors unconstitutional. In order to remove all ambiguity in respect of this question, the Committee requests the Government to repeal the provision of the Labour Code– possibly by means of the abovementioned Bill submitted to the Legislative Assembly– and provide information in its next report on all measures adopted in this respect.

[The Government is requested to report in detail in 2000.]

Philippines (ratification: 1979)

The Committee notes the information provided in the Government's report.

Article 3 of the Convention. Right of workers' organizations to elect freely their representatives. The Committee would recall that its previous comments concerned Rule II(3)(d) of Book V of the Labor Code and sections 241(c) and (p) which imposed the organization of direct members into locals and chapters and direct elections by secret ballot of local and national officers, under penalty of dissolution or officer expulsion.

The Committee had already considered these legislative provisions to be incompatible with the principles of freedom of association set forth in *Article 3* given the particular difficulties facing rural workers' organizations in assembling their members scattered around the country in a great number of islands to elect their union leaders by direct ballot and given the principle that each rural workers' organization should be able to choose in full independence the organizational structure it deems most appropriate.

The Committee notes with interest Department Order No. 9 of 1997, amending the Rules Implementing Book V of the Labor Code, which would appear to make the creation of locals or chapters of labour organizations and workers' associations no longer mandatory. The Committee further notes from the Government's report that the Department of Labor and Employment (DOLE) is presently undertaking a Labor Code Review Project and that a proposal to amend section 241(c) of the Code to bring it in line with the principles of freedom of association has already been submitted and amendments to the rules and regulations would follow. The Committee trusts that the Government will take the necessary steps in the near future to amend section 241(c) (as read with the sanction of dissolution or officer expulsion in section 241(p)) and requests the Government to indicate, in its next report, the progress made in this regard.

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In addition, a request regarding certain points is being addressed directly to *Costa Rica*.

Information supplied by *El Salvador* and *Zambia* in answer to direct requests has been noted by the Committee.

Convention No. 142: Human Resources Development, 1975

Afghanistan (ratification: 1979)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee refers to its observation on the application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), in which it notes the allegations that access to all levels of general, technical and vocational education is prohibited for women. The Committee recalls the Government's obligation under the Convention to develop policies and programmes to encourage and enable all persons, on an equal basis and without any discrimination whatsoever, to develop and use their capabilities for work. It hopes to find in the Government's next report full information on women's access to education and training and measures taken in this respect.

The Committee again expresses the hope that the Government will make every effort to take the necessary action in the very near future.

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In addition, requests regarding certain points are being addressed directly to the following States: *Algeria, Australia, Egypt, France, Guyana, Hungary, Iraq, Italy, Japan, Kenya, Latvia, Niger, Russian Federation, Slovakia, Slovenia, Tajikistan, United Republic of Tanzania, Tunisia, Turkey, Ukraine, United Kingdom.*

Convention No. 144: Tripartite Consultation (International Labour Standards), 1976

Ecuador (ratification: 1979)

The Committee notes with interest the Government's report for the period ending in May 1999. It notes in particular the detailed information on the consultations held on each of the subjects listed in *Article 5, paragraph 1, of the Convention*, which reflects the Government's efforts to ensure that the Convention is fully applied. It asks the Government to continue to keep it informed of such consultations in its future reports.

Finland (ratification: 1978)

The Committee notes the information contained in the Government's report on the application of the Convention. It also notes a communication from the organization "Chydenius-Seura 96" and the Government's response. The Committee has paid particular attention to the questions raised by the above organization on the nature of employers' organizations which participate in the work of the tripartite ILO committee. The organization wishes to take part in this work and alleges that small and medium-sized enterprises, which form the majority of enterprises in the country, are not adequately represented therein. However, the Government indicates that these enterprises are broadly represented by the employers' organizations which are members of the tripartite ILO committee and lays out the reasons why it does not consider it useful to include the organization "Chydenius-Seura 96". In the light of the information available to it, the Committee considers that the composition and functioning of the tripartite ILO committee appear to satisfy the requirements of *Articles 1, 2 and 3 of the Convention*. As it has indicated in its most recent General Survey on the Convention and on Recommendation No. 152, it is for the Government to decide in good faith and in the light of the national circumstances which organizations are to be considered the most representative (paragraph 34).

With regard to the other allegations made by the organization "Chydenius-Seura 96", the Committee considers that they are marginal and do not concern the application of the Convention. It will not therefore examine them in the context of this observation.

Gabon (ratification: 1988)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee notes the Government's report and the information that it contains in reply to its previous direct request. It also notes the comments made by the Free Federation of Energy, Mining and Allied Enterprises (FLEEMA) and the Gabonese Confederation of Free Trade Unions (CGSL).
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> The Committee notes the information provided in the Government's report on the consultations held on each of the points set out in *Article 5, paragraph 1, of the Convention*. It notes in particular that, in accordance with *point (b)* of the above paragraph, the Home Work Convention, 1996 (No. 177), as well as various instruments adopted at the last Maritime Session of the International Labour Conference, have been submitted to the competent authority or authorities. Noting that the FLEEMA, in its comments, alleges that

the Safety and Health in Mines Convention, 1995 (No. 176), and Recommendation No. 183 have not been submitted to the competent authority, the Committee wishes to recall on this point that it stated in its 1982 General Survey (paragraph 109) that the Convention goes beyond the obligation to submit stipulated in article 19 of the ILO Constitution and requests the Government to consult the representative organizations before finalizing the proposals to be submitted to the competent authority or authorities in relation to the Conventions and Recommendations which have to be submitted to them. In the light of these explanations, the Government is requested to make the comments that it considers appropriate on the observations of the FLEEMA.

Finally, with regard to the application of *Article 6*, the Committee notes the Government's reply to the observation made by the Gabonese Confederation of Free Trade Unions alleging the absence of consultations on the appropriateness of issuing an annual report on the working of the procedures provided for in the Convention. The Government states that budgetary restrictions have prevented the establishment of a tripartite consultation body for the purposes set out in the Convention, which has been the major contributing factor to this situation. The Committee requests it to provide information in future reports on any development relating to this subject and hopes that such consultations will be held in the near future.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Indonesia (ratification: 1990)

The Committee notes the Government's report, which provides some information in reply to its 1997 direct request. It also notes the observations of the Federation of All Indonesian Trade Unions on the application of the Convention, and the comments made by the Government in reply.

The Committee notes, according to the information provided in the report, that consultations on the matters covered by the Convention are held within the national tripartite cooperation body or on the occasion of ad hoc meetings. The Government adds in very general terms that the consultations have covered the matters set out in *points (a) to (d) of Article 5, paragraph 1, of the Convention*. Since 1993, the Committee has been noting in its comments that the Government has been providing highly inadequate information on the consultations to which it refers. The Committee once again requests the Government to describe in greater detail in future reports the consultations held on the matters covered by *Article 5, paragraph 1*, and to indicate the nature of all the resulting reports or recommendations, as required by the report form on this Article.

In its communication, the Federation of All Indonesian Trade Unions regrets that the number of participants in the tripartite consultations always results in the Government enjoying a preponderant position. Furthermore, the Federation deplores the fact that the power of decision within the national tripartite cooperation body lies exclusively with the Government. As the Committee recalled in its most recent General Survey on the Convention and on Recommendation No. 152, the Convention does not require any proportionality of representation of the Government, employers and workers on the body in which consultations are held (paragraph 47). The requirement of representation on an equal footing set out in *Article 3, paragraph 2*, of the Convention is intended rather to ensure substantially equal representation of the respective interests of employers and of workers and should not be interpreted as imposing strict numerical equality. What is important is that equal weight should be given to the opinions expressed. Furthermore, the Committee recalls that the consultations, which must be effective under the terms of *Article 2, paragraph 1*, of the Convention, do not require a government which holds them in good faith to be bound by the opinions expressed, since it remains entirely responsible for the final decision (paragraph 29). However, it is important for the organizations consulted to be able to express their opinion before the decision is finalized.

In view of the above considerations, the Committee asks the Government to provide a report containing information of such a nature as to demonstrate that the consultations required by the Convention are actually held in practice. In this respect, it wishes to draw the Government's attention to the possibility of seeking the technical assistance of the ILO.

Pakistan (ratification: 1994)

The Committee notes the Government's latest report on the application of the Convention. It also notes the observation formulated by the All Pakistan Federation of Trade Unions alleging absence of consultation with the employers' and workers' representative organizations on the establishment of a tripartite consultation procedure as required under the Convention. In its report, the Government states that a committee to examine the updating of the labour legislation was recently established and that the representative organizations concerned take part in its work. The Committee refers to its previous comments on the application of *Article 2 of the Convention* in which it requested the Government to inform it, where appropriate, of any consultation undertaken on the adoption of a specific tripartite procedure, and asks the Government to provide information on all consultations taking place within the social legislation committee mentioned above.

Regarding the application of *Article 5* of the Convention, the Committee asks the Government to indicate, in each of its subsequent reports, all consultations undertaken on the questions covered in *paragraph 1*, and to provide details, where appropriate, on all reports and recommendations arising therefrom.

Sierra Leone (ratification: 1985)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its observation of 1995 which read as follows:

> The Committee notes that the Joint Consultative Committee has met several times to debate the new labour legislation. It wishes to recall that the tripartite consultations referred to in the Convention are essentially designed to promote the implementation of international labour standards and concern, in particular, the matters defined and set out in *Article 5, paragraph 1, of the Convention*. The Committee therefore requests the Government to supply full and detailed information on any tripartite consultations held, including their frequency, on the subject of:
>
> (a) government replies to questionnaires concerning items on the agenda of the International Labour Conference and government comments on proposed texts to be discussed by the Conference;
>
> (b) the proposals to be made to the competent authority or authorities in connection with the submission of Conventions and Recommendations pursuant to article 19 of the Constitution of the International Labour Organization;

(c) the re-examination at appropriate intervals of unratified Conventions and Recommendations to which effect has not yet been given, to consider what measures might be taken to promote their implementation and ratification as appropriate;

(d) questions arising out of reports to be made to the International Labour Office under article 22 of the Constitution of the International Labour Organization;

(e) proposals for the denunciation of ratified Conventions.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Spain (ratification: 1984)

The Committee takes note of the Government's report and the information provided in reply to its previous observation. It notes that the consultation procedures, on which the General Union of Workers (UGT) and the Trade Union Federation of Workers Commissions (CC.OO.) commented, have remained unaltered since the previous government report. However, it observes that the Government has undertaken to consult the two representative organizations mentioned above so as to study alternative procedures to find an appropriate solution to the problems raised concerning application in practice. In view of the Government's positive attitude, the Committee trusts that its next report will bear witness to real progress in the elaboration of a consultation procedure within the meaning of *Article 2 of the Convention* to the satisfaction of all interested parties.

The Committee further notes with interest the detailed information submitted by the Government on consultations undertaken during the reporting period on each of the questions under *Article 5, paragraph 1,* of the Convention.

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In addition, requests regarding certain points are being addressed directly to the following States: *Argentina, Barbados, Belarus, Brazil, Costa Rica, Denmark, France, Guatemala, Guinea, Latvia, Lithuania, Mauritius, Republic of Moldova, Nepal, Nicaragua, Poland, Romania, Sao Tome and Principe, Sri Lanka, Swaziland, Syrian Arab Republic, Togo, Turkey, Ukraine, Venezuela, Zambia, Zimbabwe.*

Information supplied by *Bangladesh, Chile, China, El Salvador, Estonia, Greece, Hungary, Mexico* and the *Netherlands* in answer to a direct request has been noted by the Committee.

Convention No. 147: Merchant Shipping (Minimum Standards), 1976

Belgium (ratification: 1982)

The Committee notes the information communicated by the Government in its report for the years 1994-98.

Article 2(a) of the Convention (Convention listed in the Appendix to Convention No. 147 but not ratified by Belgium)

— *Convention No. 134, Article 7.* In referring to its previous comments, the Committee notes that the collective agreement of 13 June 1984 concluded by the joint committee for the merchant marine envisages a health and safety committee on board each vessel responsible for supervising the provision of crew meals and the prevention of accidents. The Committee is addressing a request directly to the Government with regard to the application of this Article.

Article 2(f). The Committee notes the information communicated by the Government concerning the provisions governing maritime inspection and their application in practice. The Committee requests the Government to continue to provide information on the inspections carried out with regard to the application of this Article of the Convention, the violations observed, the measures taken, and the penalties imposed. In particular, it requests the Government to indicate the average number of inspections carried out annually to verify the application of the ratified maritime Conventions and the application of Convention No. 147 as regards vessels registered in Belgium and to provide any relevant documents in this regard.

Portugal (ratification: 1985)

The Committee refers to its previous comments and notes the Government's reports for October 1998 and March 1999. The Committee is addressing a request directly to the Government in respect of the application of *Articles 2(a)(i)* (Convention No. 134); *2(f) and 2(g).*

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Belgium, Brazil, Cyprus, India, Kyrgyzstan, Poland, Portugal, Sweden.*

Convention No. 148: Working Environment (Air Pollution, Noise and Vibration), 1977

Brazil (ratification: 1981)

In its earlier comments, the Committee had noted the observations communicated by the Trade Union of Workers in the Civil Construction Industry, supported by the Trade Union of Mine and Metallurgy Workers (SINDIMINA), the Trade Union of Clothing and Textile Industry Workers (SINDITEXTIL), the Trade Union of Water Industry Workers, the Trade Union of Bakers and Pastry Cooks, the Trade Union of Port Workers (SINDIPESE), the Trade Union of Security Company Workers and the Trade Union of Oil Workers (SINDIPETRO), all workers' organizations in the state of Sergipe, which alleged that the regional delegate of the Ministry of Labour prohibits inspectors from being accompanied by workers' representatives. These comments appear to highlight the seriousness of the situation denounced in 1993 by the representatives of the workers' organizations, in that they indicate the existence of a policy on the part of the employers to prevent labour inspections, and the more so when the inspectors are accompanied by workers' representatives. This question was the object of a 1995 observation by the Committee. The Committee had noted, in its observation of 1997, the Government's reference to a draft standard instruction submitted to the National Labour Council, with a view to solving this problem. In its 1998 report the Government indicated that the "draft standard instruction" sent to the National Labour Council had been shelved on the grounds that the field covered by this regulation should be subject to collective bargaining and that the pertinent legislative measures would be adopted subsequently. The Government therefore indicates the adoption of Order No. 03 of 7 February 1998, issued by the Secretariat of Occupational Safety and Health (SSMT), which, under section 1(1) of Regulation No. 1, 1.7(c), IV(d), allows workers' representatives to accompany inspectors on visits related to the enforcement of legal and regulatory texts on occupational safety and health. In its report, the Government adds that this Order is applied throughout the entire territory.

The Committee observes that the Order cited (No. 03 of 7 February) was adopted in 1988, and not in 1998, and was published in the *Official Journal* of 10 March 1988. The Committee thus understands that the problems highlighted by the workers' organizations did not arise from the absence of a regulation, but from the failure to apply and respect a regulation, both by the employers and, more seriously, by a representative of the Government. The Committee therefore urges the Government to supply information on the measures adopted or envisaged to guarantee, under the terms of Order No. 03 of 7 February 1988 of the Secretariat of Occupational Safety and Health, that workers' representatives may accompany inspectors on their inspection visits related to the enforcement of occupational safety and health legislation and regulations, in application of the provisions of *Article 5, paragraph 4, of the Convention*, as well as information on the measures adopted in respect of the representatives of the state (the regional delegate of the Ministry of Labour) to ensure respect both for national legislation and for the provisions of the Convention.

With regard to the observations made by SINDIMARMORE of 23 February, 17 and 23 March 1999, the Committee refers the Government to its comments on the application of Convention No. 155.

The Committee is also addressing a request on a number of other questions directly to the Government.

Costa Rica (ratification: 1981)

With reference to its previous comments, the Committee notes the Government's reply, and in particular, its comments in respect of the observations made by the Association of Customs Officers (ASEPA), as well as other information contained in its report.

The Committee notes that the Government's comments regarding the observation by ASEPA, refer both to national and international provisions in respect of labour conditions, including the reproduction of several Articles from the present Convention. However, the Committee recalls that it had requested the Government to indicate the measures adopted to prevent and limit occupational hazards due to air pollution and noise to protect workers in posts such as customs handlers and customs operations technicians (categories I and II), who may be exposed to dust, humidity, noise and toxic gases in the workplace. The Committee consequently reiterates its request, and hopes that the Government will communicate detailed information in its next report on the measures adopted accordingly.

Article 8, paragraphs (1) and (3) and Article 9, of the Convention. The Committee notes the information supplied by the Government on the international institutions whose criteria serve to define the hazards and exposure limits to air pollution, noise and vibrations. In respect of air pollution, it notes the amendment to section 50 of the National Political Constitution and of the decrees indicated regarding use of pesticides. The Committee would be grateful if the Government would indicate the frequency with which exposure limits to air pollution, noise and vibrations are reviewed at national level, as well as the instruments which apply the aforementioned international standards within the country, specifying the texts (legal or regulatory), and including a copy thereof.

Article 11, paragraphs (1) and (2). For some years now the Committee has been asking the Government to indicate the steps taken to ensure that pre-assignment and periodical medical examinations are provided to workers at no cost to them. The Government indicates that in conformity with Decree No. 18323, of 11 July 1988, all workers working with pesticides have this right. The Committee recalls that this provision applies to all workers who may be exposed to hazards due to air pollution, noise or vibration. The Committee hopes that the Government will adopt the measures to give full application to this provision of the Convention in the near future.

Article 12. The Committee notes with interest Decree No. 21406-S, of 22 June 1992, monitoring and registration regulations for toxic products or substances and dangerous substances, products and objects. It notes that the responsible authority for the registration and monitoring of these substances and objects is the Department for Monitoring and Registering of Dangerous Substances and Occupational Medicine (DSTMT). The Committee would be grateful if the Government would supply information on any conditions prescribed by this authority for the use of processes, substances, machines or materials, and on any prohibitions issued by the same authority, as well as on texts (administrative decisions or others) which specify toxic products and substances, and dangerous objects and products.

Part IV of the report form. The Committee would be grateful if the Government would supply information on the practical application of the Convention, for example, extracts from the reports of the inspection services, statistics, if possible, regarding the number of workers covered by the legislation which applies the Convention, etc.

Ecuador (ratification: 1978)

1. The Committee notes the information provided by the Government in its report in reply to its previous comments based on the observations made by the Latin American Central of Workers (CLAT) regarding extension of the working day for operators and supervisors of the national telephone service according to the provisions of the Agreement of the Ministry of Labour and Human Resources No. 843 of 31 December 1990, which can result in a serious reduction in hearing, loss of sight and irreversible damage to the central nervous system due to permanent exposure to noise and harmful gas emissions.

The Committee recalls that it had requested the Government to supply information on the application of the measures set out in Ministerial Agreement No. 709, which rectified the provisions of Ministerial Agreement No. 843, indicating whether they guarantee protection of telephone operators and supervisors against occupational hazards due to noise and air pollution. The Committee notes with interest the adoption of Ministerial Agreement No. 136 of 23 February 1999, and in particular its section 4, which confirms the standards set in Ministerial Agreement No. 709 of 31 December 1993. The Committee would be grateful if the Government would supply information on the practical application of these measures intended to guarantee the protection of telephone operators and supervisors against occupational hazards due to noise and air pollution.

2. The Committee is raising other points in a request addressed directly to the Government.

Finland (ratification: 1979)

The Committee notes with interest the information provided in the Government's report in reply to its previous observation with respect to setting new exposure limits to air pollution, noise and vibration where appropriate, in accordance with *Article 8 of the Convention* and to ensuring that measures are prescribed for the prevention and control of, and protection against, these occupational risks due to these hazards as called for by *Article 4*. It also notes the comments made by the Central Organization of Finnish Trade Unions (SAK) communicated with the Government's report.

In its previous comments, the Committee had noted the concerns of the SAK that the grounds used to assess occupational hazards caused by air impurities, noise and vibration were still deficient and that there is still too little monitoring of the working environment and assessment of exposure. It had also noted the reply of the employers' organizations (TT and LTK) that the Convention did not call for binding limit values in a categoric fashion and that Finnish legislation did not lay down binding limit values, for example, with respect to noise exposure.

In its latest report, the Government indicates that, in December 1993, the Council of State issued a decision (1404/1993) on the protection of workers against the hazards raised from exposure to noise, by setting the exposure limit value even lower than the EU Directive 188/86/EEC, that it is intended to implement. Moreover, the decision sets a new exposure limit value for instantaneous peak value of repeated or isolated peaks of sound pressure. Should such exposure exceed one of these limits, the employer is obliged to draw up and carry out a noise control programme aimed at reducing noise as much as possible, taking into account technical progress and the availability of means of control of the noise particularly at the source. The Government adds that, on 22 December 1993, the Council of State also issued a decision on safety of machinery that fully responds to the EU Directive and contributes noise and vibration control by providing certain limit values which, when exceeded, oblige the manufacturer to declare the said limit values.

With respect to hand-arm and whole body vibration exposure, the Government indicates that there are no binding limit values and that it is still awaiting a new EU Physical Agents Directive. The Government adds that it will also try to include repeated shock type excitations (of percussive power tools) as this seems to be more dangerous to the health of workers than the "ordinary" non-impulsive vibration (or rotating or oscillating machinery). A working group has been set up under the Ministry of Social Affairs and Health to consider the Finnish position on what the Directive under preparation by the EU should be.

With regard to exposure to air pollutants, the Ministry of Social Affairs and Health has issued a decision (365/1998), confirming new concentrations of air contaminants known to be hazardous.

In its latest observations, the SAK states that there are still shortcomings in preventive occupational health and safety management in companies. In small companies particularly, there are big gaps from the point of view of action programmes for occupational health and safety and in surveying the risks involved. It considers that monitoring operations should pay more attention to noise control programmes and that monitoring measurements are at present aimed mainly at verifying the more obvious defects. Measuring and monitoring of workplace hygiene conditions, which it considers is a basic prerequisite for protection, is at a low level in the construction sector. In its view, the action required by the regulations is not being adequately implemented.

The Committee would be grateful if the Government would continue to take measures to set, supplement and revise regularly, exposure limits in respect of air pollution, noise and vibration, where appropriate, in light of current national and international knowledge and data, as called for by *Article 8* of the Convention. It requests the Government to provide further information on preventive occupational health and safety management and surveying of risks in small companies and monitoring and measurement of occupational safety and health conditions in the construction sector.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Belgium, Brazil, Cuba, Denmark, Ecuador, Egypt, France, Guinea, Hungary, Iraq, Italy, Kyrgyzstan, Norway, Slovakia, Slovenia, Spain, Sweden, United Republic of Tanzania, United Kingdom, Uruguay, Zambia.*

Convention No. 149: Nursing Personnel, 1977

Ecuador (ratification: 1978)

The Committee notes with satisfaction the information communicated by the Government on the adoption of the Act respecting the professional exercise of the duties of nursing personnel of 19 February 1998 and Decree No. 492 establishing a new regulation to implement the above Act. The Committee also notes that the Ministry of Labour has formed a unit to coordinate national policies governing nursing personnel. In addition, the Committee notes with interest the Government's statement to the effect that special measures have been adopted to address the potential risks faced by nursing personnel of accidental contamination by the HIV virus and the documentation appended to the Government's report in this regard.

Finland (ratification: 1979)

The Committee notes the information provided by the Government in its report, as well as the observation made by the Union of Health Professionals (TEHY) alleging subordination of nursing services to medical activity, insufficient wages, non-equality of payment between men and women, lay-offs and retrenchments within the health care system and the negative impact these factors produce in the employment relationships of the nursing sector. The Committee requests the Government to provide a response to these comments made by the TEHY.

The Committee is also addressing a direct request to the Government on certain points.

France (ratification: 1984)

The Committee notes that the Government's report contains no reply to previous comments. It must therefore return to its previous observation in relation to the following points:

> 1. The Committee notes with interest circular No. 20 of 4 May 1994 which changes the methods for taking account of former service and also allows service on humanitarian missions abroad to be taken into account. It asks the Government to indicate whether the principles laid down in this circular also apply to the private sector.
>
> 2. The Committee notes the information provided by the Government on the adjustment of working hours. The Committee asks the Government to continue to provide information on the application of the adjusted working hours to all hospital centres.
>
> 3. The Committee notes that under section R.714-26-1 of the Public Health Code, members of the nursing care service committee are appointed by drawing lots among volunteers who must let the director of the establishment know that they are willing to stand.

The Committee notes that *Article 5, paragraph 1, of the Convention* does not specify the role to be played by the representatives of nursing personnel in implementing the measures that must be taken, in accordance with methods appropriate to national conditions, to encourage consultation of such personnel in decisions concerning them. Even less does it specify how staff representatives should be appointed. The Committee nonetheless recalls the indications in Paragraphs 19(2) and 20 of the Nursing Personnel Recommendation (No. 157), which refer expressly to representatives of personnel within the meaning of Article 3 of the Workers' Representatives Convention, 1971 (No. 135), which sets out specific procedures for the appointment of representatives.

The Committee asks the Government to indicate why the drawing of lots was adopted as the procedure for appointing members of nursing care service committees, and to provide information on the participation of representative organizations in nursing care service committees.

The Committee is also addressing a direct request to the Government concerning certain other points.

Uruguay (ratification: 1980)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

In its previous comments the Committee noted the observations made by the Association of Nursing Personnel of Uruguay to the effect that regulations establishing a nursing diploma had been adopted without those concerned having been consulted. It noted that the detailed explanations in the Government's report gave no information on the existence and results of the consultations provided for in *Articles 2 and 5 of the Convention.*

The Committee notes the detailed information supplied by the Government. The latter refers in particular to a technical nursing committee on which the Association of Nursing Personnel of Uruguay is represented.

The Committee asks the Government to provide detailed information on the composition and functions of the technical nursing committee including the texts regulating such committees.

The Committee is also addressing a request directly to the Government concerning certain other points.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Azerbaijan, Bangladesh, Belarus, Belgium, Congo, Egypt, Finland, France, Ghana, Greece, Guatemala, Guinea, Iraq, Italy, Jamaica, Kenya, Kyrgyzstan, Latvia, Malawi, Malta, Norway, Philippines, Poland, Russian Federation, Sweden, United Republic of Tanzania, Ukraine, Uruguay, Venezuela, Zambia.*

Convention No. 150: Labour Administration, 1978

Switzerland (ratification: 1981)

The Committee notes the Government reports for the periods ending June 1994 and May 1991 as well as the copious technical and legislative documentation annexed thereto. The Committee notes with interest the final report of the evaluation study carried out by the regional placement offices (ORP) published in 1991 by the Federal Office for Economic Development and Employment (OFDE) as part of the labour market policy. Besides a detailed, all-embracing diagnosis of the various causes of unemployment according to the different elements of the national employment market, the report presents an analytical description of the procedures engaged within the labour administration system and in conformity with *Articles 6 and 9 of the Convention*, to provide a range of answers adapted to the different cases and an assessment of recorded results. In 1995, the principal goal of the ORPs, in order to face up to the sharp rise in unemployment at the beginning of the 1990s, was to establish an active reinsertion policy. Particular attention was paid to reducing length of time spent seeking employment, to opportunities for the long-term unemployed, to persons arriving at the expiry of their benefits, and to persons re-registering as unemployed. Having identified the three key elements of information, aptitude and motivation as essential to achieving maximum reinsertion, the study revealed the need for careful application of all the tools available in each case, by the employment counsellors, as well as the establishment of an incentive scheme at all levels down to individual staff members. In conformity with *Article 10, paragraph 1*, the employment counsellors have the independence required to organize their work around the objectives in view.

The Committee hopes that these efforts to increase the professionalism of the public employment service will prove fruitful, and that the Government will be able to supply information, in its next report, on the progress achieved.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Israel, Jamaica, Latvia, Zambia.*

Information supplied by the *United States* in answer to a direct request has been noted by the Committee.

Convention No. 151: Labour Relations (Public Service), 1978

Greece (ratification: 1996)

The Committee notes the Government's report. With reference to its previous comments, the Committee notes with satisfaction the adoption of Act No. 2738/99 under which employees in the public service will benefit, as of 1 January 2000, from the right to collective bargaining. The Committee requests the Government to keep it informed in future reports of the manner in which the above Act is applied in practice.

Uruguay (ratification: 1989)

1. The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation on the following matters:

> The Committee had examined in its previous observation the comments presented by the Confederation of Civil Servants Organizations (COFE) in June 1997:
>
> *Article 7 of the Convention.* The Committee considers firstly that the composition of the permanent Industrial Relations Committee (five members: two representatives of the executive, one from the Ministry of Economy and Finance and one from the Office of Planning and Budget, two representatives from the most representative organizations of public officials and the Minister of Labour and Social Security), which is de facto a joint committee, appears to be unsatisfactory due to an imbalance between the representatives of the authorities and the most representative trade union organizations. In any case, according to the comments made by COFE, it does not enjoy the confidence of these organizations. In these circumstances, the Committee requests the Government to examine the possibility of modifying the composition of the permanent Industrial Relations Committee and to inform it accordingly.
>
> Secondly, the Committee notes that, in accordance with section 739 of Act No. 16736, the competence of the permanent Industrial Relations Committee is not restricted to advising on matters of wages, but also covers "advising on conditions of employment and matters covered by international labour Conventions". However, in the Committee's view, the broader statutory competence which appears to be restricted in practice to providing advice on conditions of employment and mediation is unsatisfactory.
>
> Finally, the Committee had noted in a previous direct request that the Government had provided assurances to the effect that a number of important collective agreements had been concluded in public institutions. In this respect, the Committee requests the Government to inform it, in its next report, of the procedures which enable public employees' representatives to participate in determining the terms and conditions of employment for public employees, as well as their contents and the territorial and personal

scope of the collective agreements concluded in the public administration during the period covered by the report.

2. The Committee observes that in a communication of 21 November 1999, the PIT-CNT forwarded observations concerning the application of the Convention. The Committee requests the Government to provide its comments thereon.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Azerbaijan, Belarus, Latvia, Peru, Poland, Turkey, United Kingdom.*

Information supplied by *Guyana, Hungary* and the *Netherlands* in answer to a direct request has been noted by the Committee.

Convention No. 152: Occupational Safety and Health (Dock Work), 1979

Cyprus (ratification: 1987)

The Committee notes with satisfaction that the Occupational Safety and Health in Docks Work Regulations, 1991 gives effect to the requirements of most of the provisions of the Convention.

The Committee is also addressing a direct request to the Government on certain points.

Ecuador (ratification: 1988)

The Committee noted in earlier comments that the General Directorate of the Merchant Navy was planning to reform the occupational safety regulations applicable to ports and had undertaken to carry out a complete revision of the manual on safety standards and the prevention of risks to which port workers are exposed. The Committee notes with regret that the revision which was announced has not materialized, and the Government restricts itself to reiterating the information already communicated in its previous reports. Given that the texts to which the Government refers do not apply the provisions of the Convention, the Committee again trusts that the Government will adopt in the very near future the measures necessary to reform the text of the regulations and revise the manual on safety standards and the prevention of risks to which port workers are exposed, taking into account each of the comments made by the Committee of Experts in its direct request of 1993, so as to ensure application of the provisions of the Convention.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Cyprus, Guinea, Iraq.*

Convention No. 154: Collective Bargaining, 1981

Argentina (ratification: 1993)

The Committee notes the comments of the Union of Press Workers of Buenos Aires (UTPBA), dated 16 June 1998, concerning the possible repeal of the statutes on the conditions of service of professional journalists and on the conditions of service of administrative employees of newspaper companies, the repeal of which the UTPBA considers would adversely affect the application of the Convention. The Committee notes the Government's statement to the effect that the statutes on the conditions of service regulating journalistic activities continue to remain in force and that no text has been drafted to repeal them. Consequently, the Committee shall not pursue its examination of this question.

Greece (ratification: 1996)

The Committee notes the Government's report.

Article 1 of the Convention. The Committee notes with satisfaction the adoption of Act No. 2738/99, pursuant to which employees in the public service can benefit from the right to collective bargaining. The Committee requests the Government to inform it in future reports of the manner in which this Act is applied.

Uganda (ratification: 1990)

The Committee takes note of the Government's report. The Committee refers the Government to its comments under Convention No. 98 and once again requests it to transmit a copy of the amendments made to the Trade Disputes (Arbitration and Settlement) Act, 1964.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Azerbaijan, Belarus, Brazil, Gabon, Greece, Guatemala, Hungary, Latvia, Lithuania, Republic of Moldova, Norway, Romania, Suriname, Ukraine.*

Convention No. 155: Occupational Safety and Health, 1981

Brazil (ratification: 1992)

The Committee notes the information supplied by the Government in its report, the comments submitted by the Union of Workers from the Marble, Granite and Lime Industry of the State of Espírito Santo (SINDIMARMORE), the reply of the Government thereto and the copy of the documentation annexed.

1. Regarding the comments submitted by SINDIMARMORE, of 23 February, 17 and 23 March 1999, the Committee notes the information that Ministry of Labour measures regarding the safety and health of workers are not respected in the marble and granite sector in the State of Espírito Santo, and that this has resulted in numerous, serious occupational accidents, many of them fatal (28 cases between 1997 and 1999)

and a large number of workers suffering from occupational illnesses caused by harmful working conditions. The workers' organization also indicates that none of the many complaints submitted to various competent authorities has yet been dealt with.

In reply to the comments by SINDIMARMORE, the Government states that officials from the Secretariat of Occupational Safety and Health (SSST) visited the District of Itaoca and took note of the unsatisfactory working conditions. The Government included various reports drawn up by the labour inspection service and by occupational physicians. Moreover, it indicates that a meeting took place on the elimination of occupational accidents in the marble sector, at Vitoria on 25 March 1999, and that in 1998 7,999 inspections were carried out of which 611 concerned activities related to the extraction of stone, sand and clay. Finally, the Government indicates that in 1999 a project was executed on "The Reduction of Occupational Accidents and Diseases in the Marble and Granite Extraction and Processing Industries", the text of which was attached to the report. The Committee trusts that the Government will do everything possible to adopt the necessary measures to ensure application of the provisions of the Convention in the marble and granite sector, and asks it to continue supplying information on all progress achieved in the sphere, in particular as regards the industries situated in the State of Espírito Santo.

2. *Article 9, paragraph (1) and (2), of the Convention.* In its earlier comments, the Committee requested the Government to supply additional information on the functioning of the inspection services responsible for the enforcement of laws and regulations concerning occupational safety and health and the working environment. The Committee notes with concern, from the information provided by the SSST, that the Secretariat recognizes that there is little monitoring and supervision at present, since the auditory body in the Regional Work Delegations is not sufficiently effective, and there is a lack of occupational physicians and technicians to carry out supervisory activities. The SSST adds that, to face up to the situation described, a computerized system of labour inspection and occupational safety and health is being implemented to improve monitoring, to regulate the imposition of sanctions on, and guidance of, enterprises infringing regulations in the field, and to ensure that occupational physicians and safety and health technicians have free access to enterprises. The Committee also notes the Government's indication that a pluri-annual plan has been drawn up (1996-1999) with a view, inter alia, of providing indications for the labour inspection services on new occupational safety and health control methods, in collaboration with research and study institutes, and to monitor working conditions and environment in urban and rural undertakings. The Committee requests the Government to provide information on any progress achieved in respect of the implementation of these provisions of the Convention.

3. With reference to its comments on the points raised by the Union of Fishermen of Angra dos Reis, the Committee notes the information supplied by the Government that national labour legislation on safety and health also applies to the fisheries sector. The Committee requests the Government, in view of its intention to modify the inspection services so as to increase the effectiveness of the control of specific risks inherent in certain occupational activities, as mentioned in its report, to pay special attention to the question of workers employed in the fisheries sector and the monitoring of their safety and health condition. The Committee hopes that the Government will include information on all progress achieved in this connection in its

4. The Committee notes the adoption of Order No. 8 of 23 February 1999 containing provisions to amend Regulation No. 5 referred to the Internal Committee for the Prevention of Accidents (CIPA).

5. With respect to the information contained in the Government's report on the adoption of Order No. 53 of 17 December 1997, approving Regulation No. 29 on safety and health in work in ports, the Committee refers to its observation to the Government on the application of Convention No. 32.

6. The Committee recalls that, in its previous observation, it referred to the comments submitted by the Federal Union of Federal Public Service Workers of the State of Goiàs (SINDSEP-GO), of 1 March 1996, and again asks the Government to supply detailed information on the manner in which effect is given to the provisions of the Convention in the Ministry of Agriculture Laboratories in the State of Goiàs and in other enterprises where workers are exposed to the risk of poisoning by chemical and biological substances and agents.

Part V of the report form. The Committee notes the information supplied by the Government in its report regarding the number of contraventions reported, the number of workers covered by the Convention and the statistical information on occupational accidents and injured workers or those suffering from occupational diseases. The Committee would be grateful if the Government would continue to supply new data and statistics in its future reports as well as information on the measures undertaken to reduce hazards at work.

[The Government is asked to report in detail in 2002.]

Croatia (ratification: 1991)

With reference to its previous comments, the Committee notes with interest that the Safety and Health Protection at the Workplace Act of 1996 ensures legislative conformity with the provisions of the Convention. The Committee is addressing a request directly to the Government on the practical application of this Act as well as of the Labour Inspection Act.

Czech Republic (ratification: 1993)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee notes the Government's reply to its previous comments referring to the observations made by the Czech-Moravian Chamber of Trade Unions (CMKOS). These comments concerned the following matters: the absence of a worked-out constructive state policy of occupational safety and health to ensure compliance with the Convention; the failure of the draft document on state policy on this matter to define a basic concept of the policy, the role of the State and those of the social partners, and its failure to indicate measures contemplated at the national and regional levels; the failure of the draft law on occupational safety and health to take account of the amendments suggested by the social partners on the absence of measures at the national, regional and company levels; and the weakening of the unions' role in representing employees in matters of occupational safety and health at the national and company levels.
>
> The Committee recalls that it had requested the Government to reply to the comments of the CMKOS and to indicate the measures taken or envisaged to formulate and implement

a coherent national policy *(Article 4 of the Convention)*. The Committee notes from the Government's reply that the draft Paper on state policy which was discussed by the Government in April 1995 constituted an effort to formulate a comprehensive framework for the activities in the areas of safety and health at work and labour inspection. Steps which would lead to implementation of the proposed policies (such as laws on safety and health at work and labour inspection) were suspended in 1996 due to differing views on the concept of future legislation (Labour Code or Civil Code). Representative trade unions' and employers' organizations were duly consulted in this process. Views expressed and proposals made by the trade unions' and employers' organizations are currently being discussed in a new round of negotiations concerning the drafting of the new law on safety and health at work.

The Committee also notes the information that, based on Act No. 20/1966, numerous notifications and instructions were adopted by the Ministry of Health regulating industrial hygiene requirements in respect of the working environment, mobile machines, plant equipment, hygiene principles for work with chemical carcinogenic substances and lasers, procedures for the assessment of capacity to perform work, protection against poisons and other health endangering substances, etc. A draft law to replace obsolete parts of Act No. 20/1966 by reformulating basic employers' obligations in issues of preventive health care, and by determining the structures of state administrative bodies and their competences in the area of health protection is being prepared. In connection with the new law, the Ministry of Health intends to adopt implementing regulations to provide for hygiene thresholds and hygiene requirements for working conditions, health protection against effects of noise and vibrations, health protection against adverse effects of non-ionizing radiation, and a new law on chemical substances. The Committee also notes the information concerning a number of other related safety and health legislation in mines that are in preparation.

The Committee hopes that the Government will soon be in a position to adopt the laws and regulations that are in preparation and to communicate to the Office copies of the adopted texts. It also hopes the Government will, in its next report, indicate in detail the provisions of national laws, regulations and other appropriate measures that apply each provision of the Convention in accordance with the report form.

The Committee is addressing a number of other points to the Government in a direct request.

Sweden (ratification: 1982)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

The Committee notes from the Government's report that the following comment was submitted by the Swedish Trade Union Confederation:

"The central work environment agreement between the Swedish Employers' Confederation (SAF) and LO/PTK (the Swedish Trade Union Confederation and the Federation of Salaried Employees in Industry and Services) was revoked by SAF during the period to which this report refers. Furthermore, since the autumn of 1992, as a result of a government resolution, the central parties on both sides have not been represented on the Directorate of the National Board of Occupational Safety and Health or the regional supervisory bodies (SAF nominees having left the boards of all decision-making government authorities). Partite representation within the Work Environment Fund and on the governing bodies of testing and inspection organizations such as SWEDAC and the National Testing and Research Institute has ceased for the same reason. Accommodation of Articles 4 and 5 has become correspondingly more difficult."

> The Committee would appreciate it if the Government would provide information on relevant developments with regard to the application of *Articles 4 and 5 of the Convention.*

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Uruguay (ratification: 1988)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee notes that at its 270th Session (November 1997), the Governing Body adopted the report of the Committee set up to examine the representation made by the Latin American Central of Workers (CLAT) under article 24 of the ILO Constitution, alleging non-observance by Uruguay of this Convention (document GB.270/15/6).
>
> The conclusions of the report of the above Committee emphasize that an increase or reduction in the number of fatal working accidents is an indication of whether or not the Convention is being properly applied. Without underestimating the measures taken by the Government to ensure that accidents are prevented and risks are reduced, the allegations made by the CLAT relating to the situation in respect of occupational safety and health in the construction industry cast doubt on the results of the accident, damage and risk prevention policy introduced. It is recalled that the effective fulfilment of the national policy in the area indicated depends partly on the existence and application of sufficiently dissuasive penalties in cases where legislative or regulatory provisions are infringed, as well as on tripartite activities. Furthermore, the best way in which to ensure that working accidents are prevented requires not only more comprehensive training of construction representatives and supervisors in the construction industry, but also training activities designed to disseminate knowledge of occupational safety and hygiene more widely so as to ensure that such activities involve a larger number of workers from this sector.
>
> Under the recommendations appearing in the above report, it is proposed that the Government implement more effective tripartite activities, as well as measures relating to the various aspects of the realization and assessment of the effectiveness of the national policy designed to prevent accidents at work; that it continue to strengthen the legislative and regulatory provisions in the area in question with a view to promoting accident prevention in this sector and, in particular, to specifying in a more complete manner the respective functions and responsibilities of the social partners and other persons and institutions concerned; that it examine, at appropriate intervals, the situation in respect of occupational safety and health in the construction industry, in order to determine the problems which exist and to develop effective methods to resolve them; that it examine in particular the delivery and appropriate use of protective equipment; that it maintain and increase the labour inspection system in the industry referred to and strengthen the imposition of penalties provided for; that it broaden training activities so that they extend to the largest possible number of workers in the construction industry; that it enhance and promote, at enterprise level, cooperation between employers and workers or their representatives as an essential element of the activity designed to prevent accidents at work.
>
> **While recalling one of the Committee's conclusions according to which the determined and continuous application of measures adopted following the submission of the representation, pursuant to *Article 4 of the Convention,* as well as the fact that the assessment of such measures ensures that the accidents and injury to health arising out of work are prevented, the Committee requests the Government to provide information on the measures taken to give effect to the recommendations adopted by the Governing Body so as to ensure that the Convention is applied.**

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Venezuela (ratification: 1984)

With reference to its previous comments, the Committee notes the Government's statement that, since the new authorities took office in February 1999, the country is undergoing a process of far-reaching transformation. The Committee also notes that the members of the National Council on Prevention, Health and Safety at Work are to be appointed. Finally, it notes that the new Government undertakes to adopt the necessary measures to push forward the draft texts which had been paralysed, including the draft regulations under the Organic Act respecting prevention and working conditions and environment (OPCYMAT).

Article 4 of the Convention. The Committee recalls that the Government had reiterated on various occasions that it would adopt the necessary measures to develop a coherent national policy on occupational safety, occupational health and the working environment. The Committee recalls that it has been urging the Government since 1990 to adopt the necessary measures to give effect to this provision of the Convention. The Committee therefore hopes that the Government will be able to provide detailed information in its next report on the measures which have been taken with a view to the formulation of a coherent national policy on occupational safety, occupational health and the working environment, in consultation with the most representative organizations of employers and workers, as envisaged by this Article of the Convention.

Article 5. The Committee recalls that, in accordance with this Article, account shall be taken, when formulating the coherent national policy on occupational safety, occupational health and the working environment, of the relationships between the material elements of work and the persons who carry out or supervise the work, and adaptation of machinery, equipment, working time, organization of work and work processes to the physical and mental capacities of the workers (*point (b)* of this Article of the Convention), as well as communication and cooperation at the levels of the working group and the undertaking and at all other appropriate levels up to and including the national level (*point (d) of Article 5* of the Convention). The Committee notes the information provided by the Government concerning the functions of occupational safety and health committees and the activities of the labour inspectorate in relation to these committees and it once again requests the Government to provide detailed information on the measures adopted to give effect to the above points of this Article of the Convention.

Article 8. The Committee hopes that the Government will be able to indicate the adoption, in its next report, of the regulations to be issued under the Organic Act respecting prevention and working conditions and environment (OPCYMAT), which it has been announcing for many years. The Committee also hopes that, as it has already indicated on other occasions, the adoption of the above regulations will contribute to strengthening supervision of the manner in which laws and regulations on occupational safety and health and the working environment are applied through an adequate and appropriate system of inspection *(Article 9)*.

Article 11. The Committee notes with interest the document entitled "Industrial health and safety programme – General aspects – COVENIN Standard No. 2260-88", in relation to the application of this Article. The Committee requests the Government to provide information on the measures adopted so that the competent authorities can ensure the determination of health hazards due to the simultaneous exposure to several substances or agents (*point (b)* of this Article) and the publication, annually, of information on measures taken in pursuance of the national policy on occupational safety, occupational health and the working environment (*point (e)* of this Article).

Article 12(b) and (c). The Committee regrets to note that the Government has not replied to its request concerning this Article of the Convention. It once again requests the Government to provide information on the measures adopted to give effect to this Article, which concerns compliance with national standards for the design, manufacture, import or provision of machinery or equipment or substances for occupational use.

Article 17. The Committee regrets to note that once again the Government has not provided any information on the measures adopted to give effect to this Article, which requires the adoption of legislative or other measures to require enterprises which engage in activities simultaneously at one workplace to collaborate in applying the requirements of the Convention. The Committee hopes that the Government will take the necessary measures to provide the requested information.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Croatia, Czech Republic, Ethiopia, Finland, Hungary, Nigeria, Portugal, Slovakia, Slovenia, Spain, Sweden.*

Information supplied by the *Netherlands* in answer to a direct request has been noted by the Committee.

Convention No. 156: Workers with Family Responsibilities, 1981

Guatemala (ratification: 1994)

With reference to [illegible] previous comments regarding *Article 4(a) of the Convention*, the Committee notes with satisfaction the promulgation of Decree No. 80-98 repealing section 114 of the Civil Code, which provided that the husband could oppose the wife's work when he earned enough to maintain the household.

Japan (ratification: 1995)

The Committee notes the communication dated 29 October 1999 received from the Japanese Trade Union Confederation (JTUC-RENGO) relating in particular to the application of *Article 8 of the Convention* concerning termination of employment of workers with family responsibilities. It also notes the Government's reply stating that it is currently examining the matters raised in the above communication so that it can respond to them in its next report. The Committee will examine these matters at its next session.

Portugal (ratification: 1985)

The Committee notes with interest the Government's detailed report, including the information compiled by the Directorate-General of Social Action and the Commission for Equality at Work and Employment (CITE).

1. The Committee notes with satisfaction the adoption of Act No. 1/97 of 20 September 1997, which amended the Portuguese Constitution and, inter alia, establishes that all workers, regardless of gender, have the right for work to be organized in such a way as to assist them to reconcile their professional and family responsibilities (Constitutional article 59(1)(b)) and that mothers and fathers should be granted the right to leave from work for reasonable periods, in keeping with the child's interests and the needs of the family unit (Constitutional article 68(4)).

2. The Committee further notes with interest the amendments to Act No. 4/84 incorporating European Economic Council Directive No. 92/85/EEC into the national legislation (Act No. 17/95 of 9 June 1995) and extending maternity leave as well as special childcare leave.

3. The Committee is addressing a request directly to the Government on other points.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Ethiopia, Guatemala, Japan, Niger, Peru, Portugal, Slovenia, Spain, Uruguay, Venezuela, Yemen.*

Convention No. 157: Maintenance of Social Security Rights, 1982

A request regarding certain points is being addressed directly to Sweden.

Convention No. 158: Termination of Employment, 1982

Finland (ratification: 1992)

The Committee notes the information contained in the Government's report for the period ending May 1999.

Article 2. 1. With reference to previous comments, the Government explains that Article 9, sections (1) and (2) of the State Civil Servants Act lists the conditions under which a fixed-term contract is permissible, and that Article 56 of the Act states that if a fixed-term contract is not justified under Article 9(1) or (2) and the employer terminates the employment, the worker is entitled to a severance allowance of a minimum of six months' salary and a maximum of 24 months' salary. The Committee requests a copy of this Act, including the most recent amendments, as the copy available in the Office contains amendments only up to 1989.

2. The Government states that it has temporarily amended the Employment Contracts Act for the period from February 1997 through December 1999 to permit the use of fixed-term contracts when demand is unstable for the services in an enterprise. The amendment also removes the prohibition on "chains of contracts" but does not

specify whether this measure is also temporary. The Finnish Confederation of Salaried Employees (STTK) considers that the abuse of fixed-term contracts has increased because it is left to the discretion of the employer to determine whether he or she falls within this exception. The Committee would appreciate receiving further information on whether this amendment to the Employment Contracts Act is allowed to expire on 31 December 1999 or is renewed (and if renewed, the Committee requests a copy), whether the lifting of the prohibition on chains of contracts is temporary, and whether consultation with the organizations of employers and workers concerned took place prior to adopting the amendment. It also asks the Government to provide further information on what body determines whether demand for services in an industry is sufficiently unstable for this exception to be invoked.

3. The Central Organization of Finnish Trade Unions (SAK) alleges that there is a high rate of evasion of the laws protecting job security in the hotel and restaurant industries due to contracting out of labour and the use of fixed-term contracts on a rotating basis. The SAK alleges that a substantial number of workers are pressured into becoming self-employed as a means of evading the protection against unjustified dismissal. The Committee asks the Government to provide details on what safeguards exist to prevent recourse to fixed-term contracts or involuntary self-employment, with the aim of avoiding the protection resulting from the Convention, as required by *Article 2, paragraph 3.*

4. The STTK also points out that the Government has instituted a policy of allowing long-term unemployed workers to be hired on fixed-term employment contracts of at least six months' duration without any work-related grounds. The Committee notes that the use of fixed-term contracts for a limited period in such cases may be justified as part of a policy which attempts to balance the goals of protecting employment and reducing long-term unemployment. However, the Committee stresses that the Government should make every effort, in consultation with workers' and employers' organisations, to minimize the cost to the individuals directly affected. The Committee would appreciate receiving more detailed information on this policy, including its legal basis and the process by which it is implemented, the number of such unemployed persons engaged on fixed-term contracts, the maximum length of use of fixed-term contracts in such instances, and its impact.

Article 11. The SAK alleges that "stand-by" workers (engaged on a part-time basis) can be laid off without notice. The Committee asks the Government to clarify whether part-time workers are also entitled to notice before termination of employment.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: ***Bosnia and Herzegovina, Cameroon, Democratic Republic of the Congo, Ethiopia, Gabon, Latvia, Niger, Spain, Sweden, Venezuela, Yemen, Zambia.***

Convention No. 159: Vocational Rehabilitation and Employment

Japan (ratification: 1992)

The Committee notes the Government's report for the period ending May 1999. It also notes the communication from the Japanese Trade Union Confederation (RENGO)

concerning the insufficient numbers of persons with disabilities who actually benefit from vocational rehabilitation. The allegations also concern the need to strengthen the legislative measures adopted in this respect. The Committee notes a brief communication from the Government indicating that a response will soon be sent in reply to the comments of the Confederation. The Committee will therefore defer its examination of the report to its next session.

Pakistan (ratification: 1994)

The Committee notes the Government's report for the period ending June 1999. It notes that the Government confines itself to referring to its previous report, without replying to the questions raised by the Committee in its previous direct request. The Committee therefore once again requests the Government to provide additional information on the following points.

Article 5 of the Convention. With reference to sections 3 and 5 of the Disabled Persons (Employment and Rehabilitation) Ordinance, 1981 (No. XL), the Committee notes that one representative of registered trade unions is appointed to each of the provincial councils for the rehabilitation of disabled persons. It requests the Government to describe the manner in which representatives of employers' organizations are consulted on the implementation of the national policy on vocational rehabilitation and the employment of persons with disabilities, and to indicate whether representative organizations of and for disabled persons are consulted on the implementation of the above policy.

Article 7. The Committee notes the information concerning the establishment of training centres to impart vocational training to disabled persons throughout the country. It requests the Government to describe in detail the measures taken at the federal and provincial levels with a view to providing and evaluating vocational guidance, vocational training, placement, employment and other related services to enable persons with disabilities to secure, retain and advance in employment, in accordance with this Article of the Convention.

Article 9. The Committee notes the indication that rehabilitation staff are professionally qualified and it requests the Government to indicate the measures which have been taken to ensure the training and availability of such personnel.

Furthermore, the Committee notes a communication of July 1999 from the All Pakistan Federation of Trade Unions according to which no legislative measures have been adopted to give effect to the Convention, despite the Federation's efforts to call upon the Government to adopt such measures. The Committee requests the Government, to which the Office transmitted a copy of the above communication, to make any comments which it deems appropriate in reply to the allegations made by the All Pakistan Federation of Trade Unions.

[The Government is asked to report in detail in 2001.]

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Argentina, Azerbaijan, Burkina Faso, Czech Republic, Ethiopia, Guinea, Kyrgyzstan, Philippines, Sao Tome and Principe, Slovakia, Slovenia, Uruguay, Zambia.*

Information supplied by *Germany* in answer to a direct request has been noted by the Committee.

Convention No. 160: Labour Statistics, 1985

Finland (ratification: 1987)

The Committee notes that the comments on the application of the Convention by the Confederation of Finnish Industry and Employers (TT), the Central Organization of Finnish Trade Unions (SAK) and the Confederation of Unions for Academic Professionals in Finland (AKAVA) were received on 3 November 1999 with the Government's report. It notes in particular that SAK makes specific reference to *Article 7* (increase of hidden unemployment and absence of statistics on underemployment), *Article 9* (defective link between statistics of earnings and those of hours of work) and *Article 10* (non-availability of wage distribution data regarding all sectors) *of the Convention*. The Committee will examine the details of these comments at its next session together with any observations the Government wishes to make on the points raised, as well as the replies to the direct request made in 1995.

Germany (ratification: 1991)

The Committee notes that the German Confederation of Trade Unions has submitted observations with regard to the Government's report on the application of *Article 14 of the Convention*. In particular, it considers that the statistics on occupational diseases are incomplete since they only cover those illnesses defined by the Federal Government as occupational diseases, and that diseases associated with many different causative factors are excluded from the scope of occupational diseases, and thus from the statistics. As a copy of this communication was transmitted to the Government in October 1999, the Committee invites the Government to supply its observations on the points raised by the above Confederation so that the Committee can examine the question at its next session.

Sri Lanka (ratification: 1993)

In its earlier observation, the Committee noted the comment presented by the Ceylon Workers' Congress, which pointed out the non-observance of *Article 3 of the Convention* concerning the consultation with the representative organizations of employers and workers in designing or revising the concepts, definitions and methodology used as regards the statistics covered by the Convention. It notes the Government's indication in the report that there is no fixed mechanism to consult the representatives of employers' and workers' organizations in designing or revising the concepts, but that there are instances where they have been consulted, for instance when revising the Consumer Price Index *(Article 12)*. It adds that the Department of Census and Statistics consults the users when revising concepts and definitions, and that it has been brought to the notice of the Director-General of Census and Statistics who has agreed to invite the representatives of the employers and workers for user meetings on matters applicable to them.

The Committee recalls once again that the aim of the consultation provided by this Article is to take into account the needs of employers and workers and to ensure their cooperation, and that it leaves the choice of method of the consultation to each State, which may or may not be through a statutory machinery. It requests the Government to provide information on any measures taken or envisaged to consult employers' or workers' organizations for each of the *Articles 7, 8, 10, 13 and 15*.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Azerbaijan, Bolivia, Cyprus, Czech Republic, Denmark, Germany, Ireland, Italy, Kyrgyzstan, Mauritius, Netherlands, Panama, Slovakia, Sri Lanka, Swaziland, Sweden, United Kingdom.*

Convention No. 161: Occupational Health Services, 1985

Hungary (ratification: 1988)

The Committee notes with interest the information contained in the Government's reply to its previous comments which were based on the observations made by the National Organization of Hungarian Trade Unions. It notes with interest the adoption of the law on occupational safety, the Labour Protection Act XCIII of 1993 and its amending Act CII of 1997, and several decrees of relevance to the application of the provisions of this Convention. The Committee is addressing a request for more information directly to the Government.

Sweden (ratification: 1986)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee notes the information provided in the Government's latest report. It notes new efforts undertaken with a view to promote occupational health services for all workers. It also notes the comments made by the Swedish Trade Union Confederation (LO) and the Swedish Employers' Confederation (SAF).
>
> *Article 2 of the Convention.* Referring to its previous comments, the Committee notes the amendments to the national legislation and changes made in the funding system for occupational health care aimed at encouraging preventive activities under work environment policy. As to the Government's control of occupational health care, the National Audit Bureau concluded that the steering effects of the state grant were weak, for example, in increasing the affiliation of small undertakings, and the Government consequently abolished the general grant for occupational health services as from January 1993. In the meantime, a special investigator was appointed to study the organization and funding of occupational health services, and recommended the abolition of public control on occupational health services. This recommendation was based on the support expressed by the labour market parties of collective agreements for a flexible and efficient adjustment of resources for work relating to the occupational environment and rehabilitation. The special investigator proposed that provisions for occupational health services be added to the Work Environment Act. Most of the authorities and organizations upon examination of the investigator's report took the view that the question of occupational health services should be settled through collective bargaining. Agreements concerning occupational health care have been concluded in certain negotiating sectors. The Government intends to wait for the results of negotiations

before deciding whether or not to introduce legislative amendments on the subject. In the Spring of 1993 a pilot study was undertaken by the National Board of Occupational Safety and Health in preparation of an ordinance relating to occupational health services.

The Committee also notes that the LO points out in its comments that since the cancellation in July 1992 of the Work Environment Agreement between the LO and the SAF that had governed the conditions applying to occupational health services in the private employment sector, such services have not been regulated by any collective agreements and that negotiations concerning a new agreement have been going on for more than two years.

The Committee further notes the comments by the SAF indicating that a significant number of agreements at the national federation level have been concluded and discussions are still in progress with several other federations. The main issue is the benefit that companies and employees derive from occupational health services. In conclusion, the SAF considers that, given the rules contained in the national legislation in the great majority of cases the employer cannot meet its responsibilities for the work environment and rehabilitation without assistance from occupational health services, and that no further legislation is needed for the implementation of the Convention.

The Committee hopes that the efforts undertaken by the Government in order to review the national policy on occupational health services will lead to a solution in the near future, in the light of national conditions and practice and in consultation with the most representative organizations of employers and workers. It requests the Government to indicate progress achieved in this respect.

Article 3, paragraph 1. In its previous comments, the Committee requested the Government to provide information on the measures taken or contemplated to promote occupational health services for all workers and to indicate the progress made in this regard.

The Government indicates that a new agreement on occupational health services, effective as of 1 July 1992, had been concluded by the National Agency for Government Employers (SAV) and the union organizations for the national government sector; that in a special agreement for the local government sector, concluded in May 1993, the parties referred to occupational health services as a possible resource within the work environment and rehabilitation sphere; and that a number of agreements have been concluded in the private sector. According to the Government, the special provision concerning the Occupational Health Services Delegation in the Standing Instructions of the National Board of Occupational Safety and Health was contained by more generally worded rules to the effect that the Board and the Labour Inspectorate are to observe and encourage the development of occupational health services. The Committee asks the Government to provide copy of the said text. The Committee also notes that a study undertaken jointly by the OHS sectoral organization and the labour market parties referred to by the LO in its comments pointed to the trend of a significant diminution in the staff of occupational health services and in the number of units.

The SAF indicates that the reasons for this reduction of occupational health services were the previous glut of these services, the decline in the number of employees in the country, the growth of corporate expenditure on these services and the threat posed to the status of medical care by the reforms introduced in primary care. In the opinion of the SAF, too much attention has been focused on the coverage rate of occupational health services solely in terms of the number of persons covered. The evaluation of the actual utilization of occupational health services by companies showed that, even among companies affiliated to these services, barely half regarded them as a major corporate resource; for this reason, the SAF thinks it important to distinguish between formal coverage and the value of occupational health services inputs.

The Committee hopes that the Government will continue to make efforts to develop progressively occupational health services for all workers. The Government is requested to provide information on the measures taken or envisaged in this respect.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Brazil, Czech Republic, Finland, Hungary, Slovenia, Sweden, Uruguay.*

Convention No. 162: Asbestos, 1986

Finland (ratification: 1988)

The Committee notes the comments made by the Central Organization of Finnish Trade Unions (SAK) included in the Government's report. With a view to the application of *Article 17, paragraph 1, of the Convention*, the SAK states that problems in practice occurred due to the fact that, apart from authorized enterprises specialized in asbestos removal, irresponsible enterprises carry out asbestos removal work without even having applied for the required authorization. Furthermore, as regards *Article 21* of the Convention, the SAK observes that this Article is not applied to a desirable extent, since workers who have been exposed to asbestos have faced difficulties in being admitted to medical examinations, because insurance companies have not granted the required financial engagement. Moreover, health damages caused by asbestos are characterized as quite small and, therefore compensation paid to workers remain low. The Committee is dealing with these comments and other points in a request addressed directly to the Government.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Bolivia, Cameroon, Cyprus, Finland, Germany, Guatemala, Slovenia, Switzerland, Uganda.*

Convention No. 164: Health Protection and Medical Care (Seafarers), 1987

A request regarding certain points is being addressed directly to *Sweden.*

Convention No. 166: Repatriation of Seafarers (Revised), 1987

A request regarding certain points is being addressed directly to *Australia.*

Convention No. 167: Safety and Health in Construction, 1988

A request regarding certain points is being addressed directly to *Colombia.*

Convention No. 168: Employment Promotion and Protection against Unemployment, 1988

Requests regarding certain points are being addressed directly to the following States: *Finland, Norway, Switzerland.*

Convention No. 169: Indigenous and Tribal Peoples, 1989

Honduras (ratification: 1994)

The Committee has examined the Government's first report, which arrived too late to be considered at its previous session. It notes in particular that the first report indicated a number of ways in which plans were being made for the Convention's implementation, but that most of these plans remained to be implemented. This was made far more difficult by the devastation wrought upon the country – particularly in areas inhabited by indigenous peoples – by Hurricane Mitch in 1998. The Committee is therefore addressing a request directly to the Government asking for more detailed and up-to-date information on the progress made on the implementation of the Convention, with particular emphasis on the involvement of the indigenous peoples of the country in decisions affecting them, as required by *Article 6 of the Convention.*

In this connection, the Committee notes that the Government proposed to amend article 107 of the Constitution, in a way which would have permitted the acquisition of lands along the coastline by private individuals. Indigenous groups in the country are reported to have felt that this would damage their rights to the lands which they traditionally occupy. The Committee understands that the proposal to enact this amendment has now been suspended, but it would be grateful if the Government would provide information in its next report on the current situation.

Mexico (ratification: 1990)

1. The Committee notes the Government's comments received in reply to its previous observation. Nonetheless, there are still questions outstanding on the application of the Convention, which are being taken up in detail in a request addressed directly to the Government. In the present observation it will refer to some of the questions raised in the direct request, recalling that it hopes to receive more detailed information in the Government's next report on the points raised.

2. The Committee recalls that the Governing Body adopted in June 1998 the report of a tripartite committee established to examine a representation under article 24 of the Constitution on questions concerning the land rights of a Huichol Indian community *(Articles 13 to 19 of the Convention).* The Committee asked in its previous comments what steps the Government had taken to remedy the situation which had given rise to this representation in application of *Article 19* of the Convention. Additional information has now been received from the Trade Union Delegation for Radio Education in this regard. The Committee hopes the Government will provide detailed information in its next report.

3. The Committee notes that the report of another tripartite committee which dealt with a second representation under *Article 24* was adopted at the November 1999 session of the Governing Body, concerning a representation submitted by the Radical Trade Union of Metal and Similar Workers. This representation also concerned land rights, on this occasion of indigenous communities in the Uxpanapa Valley. The complainants had alleged a continuing lack of resolution of land claims arising from the displacement of indigenous communities following the construction of a dam beginning in 1972. In this case, as in the one referred to in the previous paragraph, the Government was asked by the Governing Body to inform the Committee of Experts of the measures taken to resolve the situation in which these indigenous peoples are now living. Both these representations resulted in concern being expressed by the Governing Body over an apparent lack of real dialogue between the Government and the indigenous communities to discuss their situation and to find answers to their problems in the consultative spirit on which this Convention is based.

4. The Committee also has before it information submitted by the Authentic Workers' Front (FAT) in September 1998 and August 1999 under article 23 of the Constitution, and comments made by the Government on this information. These communications from FAT dealt in part with land rights, in particular what was described as the loss of a right of inalienability of indigenous lands making these peoples more vulnerable to losing their land rights. Furthermore reference is made to the conclusion of agreements with multinational enterprises allowing exploitation of mineral and forestry resources on indigenous lands, without the kinds of protection of indigenous involvement contemplated in the Convention. They also contained allegations that, although the Government had carried out consultations with indigenous representatives on constitutional reforms which would affect them, it had ignored the results of such consultations. In addition, they submit allegations of serious labour abuses against indigenous migrant workers. The Government has supplied partial information relating to most of these points, indicating work undertaken in relation to these subjects. The Committee is concerned, however, by the apparent lack of a dialogue between the Government and the indigenous peoples which would contribute to resolving the problems affecting them.

5. The Committee therefore asks the Government to re-examine the measures it is taking in regard to the problems encountered by the indigenous peoples of the country, and to submit detailed information on them in its next report. It suggests that the Government could request the technical assistance of the International Labour Office in establishing a dialogue, and in examining in depth the problems being raised by indigenous communities, and by workers' organizations, in the application of the Convention. One measure that could be explored would be a workshop at the national level, involving the Office, all the concerned government entities, the social partners, and representatives of the indigenous peoples of the country to examine all the questions raised on the application of the Convention and to establish modalities of working on them which would meet the expectations of all parties.

[The Government is asked to report in detail in 2001.]

Paraguay (ratification: 1993)

1. The Committee notes that the report covering the period from 1 June to 1 September 1998 contains information of a general nature but does not respond in full to the matters raised previously in various requests addressed directly to the Government. Shortly before the beginning of its session, the Committee received a new report with numerous annexes covering the period 1 June 1994 to 31 May 1998, which it will examine carefully next year, together with the Government's response to the comments made at its present session and any additional comments which are made. The Committee wishes to draw the Government's attention to the following points:

2. *Articles 9, paragraph 2, and 11, of the Convention.* The Committee notes the information provided by the World Confederation of Labour (WCL) in October 1997, under Convention No. 29, indicating that the working conditions of indigenous persons in ranches suggest an extensive practice of forced labour for the repayment of debts contracted in ranch shops in the purchase of basic foodstuffs and other products of primary necessity at exaggerated prices. This circumstance, combined with the allegation that wages are not paid or are paid at the end of the contract, would signify that in order to survive the workers would have to become indebted and are obliged to work to repay their debt. The information also refers to the ill-treatment suffered by indigenous workers in ranches. The Committee notes that the Government has not provided its comments on these allegations. The Committee therefore urges the Government to provide information on the comments transmitted by the WCL.

3. *Articles 13 to 19. Land.* The Committee notes that religious missions are delivering definitive title to property to certain indigenous communities and that the Paraguayan Indigenous Institute (INDI) had considered that the claims of the Lengua and Sanapaná indigenous communities to 40,000 hectares in "Quebrachales Puerto Colón" had been practically settled. The Committee once again requests the Government to provide detailed information on the manner in which the transfer of land from the missions to the indigenous communities is proceeding, and on whether the indigenous communities are required to pay compensation and which indigenous communities have benefited from these measures. Please also provide information in the next report on developments in the situation, including the activities of religious missions in this context, whether other non-governmental bodies have pursued such practices in the country and details of the different forms of land tenure prevailing in areas inhabited by indigenous peoples. Please also include information on the finalization of the agreement to resolve the case of indigenous communities in the area known as "Quebrachales Puerto Colón".

4. *Article 20. Recruitment and conditions of employment.* The Committee has received information on the working conditions of indigenous rural workers in Chaco, according to which their wages are only paid at the end of the year; it is alleged that numerous deductions are made for items including food, which in most cases is said to be over-priced. Moreover, discrimination has been alleged in remuneration, where the minimum wage for indigenous workers may be far lower than the level established by the law and non-indigenous workers earn more for the same type of work. Taking this information into consideration, and even though the Government has not ratified the Labour Inspection (Agriculture) Convention, 1969 (No. 129), the Committee requests the Government to provide information on the possibility of establishing adequate labour

inspection services in areas where there is a high concentration of indigenous workers in order to monitor the working conditions of indigenous peoples, as envisaged in this Article of the Convention.

5. The Committee is addressing a request directly to the Government on other matters.

[The Government is asked to report in detail in 2000.]

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Costa Rica, Honduras, Mexico* and *Paraguay*.

Convention No. 171: Night Work, 1990

Requests regarding certain points are being addressed directly to the following States: *Dominican Republic, Lithuania, Portugal*.

Appendix I. Table of reports received on ratified Conventions as of 10 December 1999

(article 22 of the Constitution)

Article 22 of the Constitution of the International Labour Organization provides that "each of the Members agrees to make an annual report to the International Labour Office on the measures which it has taken to give effect to the provisions of the Conventions to which it is a party. These reports shall be made in such form and shall contain such particulars as the Governing Body may request". Article 23 of the Constitution provides that the Director-General shall lay before the next meeting of the Conference a summary of the reports communicated to him by Members in pursuance of article 22, and that each Member shall communicate copies of these reports to the representative organizations of employers and workers.

At its 204th (November 1977) Session, the Governing Body approved the following arrangements for the presentation by the Director-General to the Conference of summaries of reports submitted by governments under article 22 of the Constitution:

(a) the practice of tabular classification of reports, without summary of their contents, which has been followed for several years in respect of reports subsequent to first reports after ratification, should be applied to all reports, including first reports;

(b) the Director-General should make available, for consultation at the Conference, the original texts of all reports received on ratified Conventions; in addition, photocopies of the reports should be supplied on request to members of delegations.

At its 267th (November 1996) Session, the Governing Body approved new measures for rationalization and simplification.

Reports received under article 22 of the Constitution appear in simplified form in a table annexed to the report of the Committee of Experts on the Application of Conventions and Recommendations; first reports are indicated in parenthesis.

Requests for consultation or copies of reports may be addressed to the secretariat of the Committee on the Application of Standards.

Afghanistan

8 reports requested

- No reports received: Conventions Nos. 41, 45, 100, 105, 111, 137, 141, 142

Albania

5 reports requested

- 3 reports received: Conventions Nos. 98, (105), (111)
- 2 reports not received: Conventions Nos. 11, 16

Algeria

18 reports requested

- 10 reports received: Conventions Nos. 29, 42, 81, 89, 91, 92, 98, 105, 111, 144
- 8 reports not received: Conventions Nos. 11, 13, 17, 63, 96, 127, 142, 150

Angola

11 reports requested

- 10 reports received: Conventions Nos. 12, 17, 18, 26, 45, 89, 98, 100, 105, 111
- 1 report not received: Convention No. 81

Antigua and Barbuda

11 reports requested

- 1 report received: Convention No. 17
- 10 reports not received: Conventions Nos. 11, 12, 29, 81, 87, 98, 105, 108, 111, 138

Argentina

19 reports requested

- 18 reports received: Conventions Nos. 3, 11, 12, 17, 26, 35, 41, 42, 81, 95, 98, 105, 111, 144, 151, 154, 156, 159
- 1 report not received: Convention No. 9

Armenia

6 reports requested

- No reports received: Conventions Nos. (100), (111), (122), (135), (151), (174)

Australia

17 reports requested

- All reports received: Conventions Nos. 11, 12, 29, 42, 69, 73, 81, 98, 105, 111, 144, 150, 156, 158, 159, 160, 166

Austria

11 reports requested

- All reports received: Conventions Nos. 11, 12, 17, 42, 81, 89, 98, 105, 111, 144, 160

Azerbaijan

12 reports requested

- 10 reports received: Conventions Nos. 11, 16, 98, 111, 144, 147, 148, 154, 159, 160
- 2 reports not received: Conventions Nos. 149, 151

Bahamas

8 reports requested

- All reports received: Conventions Nos. 11, 12, 17, 42, 81, 98, 105, 144

Bahrain

2 reports requested

- All reports received: Conventions Nos. 81, 89

Bangladesh

13 reports requested

- All reports received: Conventions Nos. 11, 16, 18, 29, 45, 81, 89, 96, 98, 105, 111, 144, 149

Barbados

18 reports requested

- 12 reports received: Conventions Nos. 5, 12, 17, 81, 98, 105, 108, 111, 118, 122, 144, (172)
- 6 reports not received: Conventions Nos. 7, 11, 16, 19, 42, 63

Belarus

11 reports requested

- All reports received: Conventions Nos. 11, 81, 98, 105, 111, 144, 149, 150, (151), (154), 160

Belgium

15 reports requested

- All reports received: Conventions Nos. 11, 12, 81, 98, 105, 111, 121, (129), 144, 148, 149, 151, 154, 162, (171)

Belize

14 reports requested

- 7 reports received: Conventions Nos. 5, 8, 29, 87, 88, 99, 108
- 7 reports not received: Conventions Nos. 11, 12, 42, 81, 89, 98, 105

Benin **7 reports requested**

- 3 reports received: Conventions Nos. 11, 41, 111
- 4 reports not received: Conventions Nos. 18, 85, 98, 105

Bolivia **17 reports requested**

- 8 reports received: Conventions Nos. 81, 87, 89, 98, 105, 111, 121, 128
- 9 reports not received: Conventions Nos. 102, 103, 117, 122, 131, (138), (159), 160, 162

Bosnia and Herzegovina **48 reports requested**

- No reports received: Conventions Nos. 8, 9, 11, 12, 13, 14, 16, 19, 22, 23, 27, 29, 32, 45, 53, 69, 73, 74, 81, 87, 88, 89, 91, 92, 98, 100, 102, 103, 111, 113, 119, 121, 122, 126, 129, 131, 135, 136, 138, 139, 142, 148, 155, 156, 158, 159, 161, 162

Botswana **12 reports requested**

- No reports received: Conventions Nos. (29), (87), (95), (98), (100), (105), (111), (138), (144), (151), (173), (176)

Brazil **24 reports requested**

- All reports received: Conventions Nos. 11, 12, 29, 42, 81, 89, 92, 98, 103, 105, 111, 118, 127, 144, 148, 154, 155, 159, 160, 161, 162, (163), (164), (166)

Bulgaria **8 reports requested**

- All reports received: Conventions Nos. 11, 12, 17, 42, 81, 98, 111, 127

Burkina Faso **18 reports requested**

- No reports received: Conventions Nos. 5, 11, 17, 18, 29, 41, 81, 87, 98, 100, (105), 111, 129, (141), 150, 159, (161), (170)

Burundi **25 reports requested**

- 12 reports received: Conventions Nos. 11, 19, 29, 59, 81, (87), 94, (98), (100), 105, (111), (144)
- 13 reports not received: Conventions Nos. 1, 12, 14, 17, 26, 27, 42, 52, 62, 89, 90, 101, (135)

Cambodia **1 report requested**

- All reports received: Convention No. 4

Cameroon **20 reports requested**

- 4 reports received: Conventions Nos. 9, 29, 87, 105
- 16 reports not received: Conventions Nos. 5, 11, 16, 45, 81, 89, 98, 100, 108, 111, 122, 123, 135, 146, 158, 162

Canada **4 reports requested**

- All reports received: Conventions Nos. 105, 111, 160, 162

Cape Verde **8 reports requested**

- 3 reports received: Conventions Nos. 29, 100, 118
- 5 reports not received: Conventions Nos. 17, 81, 98, 105, 111

Central African Republic **12 reports requested**

- No reports received: Conventions Nos. 11, 17, 18, 19, 41, 62, 81, 87, 98, 105, 111, 118

Chad **8 reports requested**

- 5 reports received: Conventions Nos. 11, 26, 98, 100, 105
- 3 reports not received: Conventions Nos. 41, 81, 111

Chile **15 reports requested**

- All reports received: Conventions Nos. 11, 12, 17, 35, 36, 37, 38, 42, 63, 111, 127, 144, 156, 159, 162

China **6 reports requested**

- All reports received: Conventions Nos. 11, 27, (122), 144, 159, 170

Hong Kong Special Administrative Region

22 reports requested

- All reports received: Conventions Nos. (2), (8), (11), (12), (17), (29), (42), (45), (59), (81), (87), (98), (105), (108), (122), (142), (144), (147), (148), (150), (151), (160)

Colombia

15 reports requested

- All reports received: Conventions Nos. 4, 11, 12, 17, 18, 81, 87, 95, 98, 105, 111, 136, 159, 160, (174)

Comoros

20 reports requested

- No reports received: Conventions Nos. 1, 5, 10, 11, 12, 17, 26, 29, 33, 42, 81, 87, 89, 95, 98, 99, 100, 105, 106, 122

Congo

8 reports requested

- All reports received: Conventions Nos. 5, 11, 29, 87, 89, 95, 149, 150

Costa Rica

15 reports requested

- 13 reports received: Conventions Nos. 11, 81, 89, 98, 105, 111, 130, 141, 144, 147, 150, 159, 169
- 2 reports not received: Conventions Nos. 127, 148

Côte d'Ivoire

9 reports requested

- 7 reports received: Conventions Nos. 11, 41, 81, 98, 100, 111, 144
- 2 reports not received: Conventions Nos. 18, 105

Croatia

15 reports requested

- All reports received: Conventions Nos. 11, 12, 48, 81, 98, (105), 111, 119, 121, 148, 155, 156, 159, 161, 162

Cuba

15 reports requested

- All reports received: Conventions Nos. 4, 11, 12, 17, 42, 63, 81, 98, 105, 111, 148, 150, 151, 155, 159

Cyprus

24 reports requested

- 12 reports received: Conventions Nos. 11, 44, 58, 81, 89, 98, 111, 122, (147), 151, 155, 171
- 12 reports not received: Conventions Nos. 105, 121, (138), 144, 150, 154, 158, 159, 160, 162, (172), (175)

Czech Republic

16 reports requested

- 13 reports received: Conventions Nos. 11, 12, 17, 42, 98, 102, 105, 111, 128, 159, 160, 161, 171
- 3 reports not received: Conventions Nos. 89, 148, 155

Democratic Republic of the Congo

21 reports requested

- No reports received: Conventions Nos. 11, 12, 19, 26, 27, 29, 62, 81, 84, 88, 89, 94, 98, 100, 117, 118, 119, 120, 121, 150, 158

Denmark

21 reports requested

- 16 reports received: Conventions Nos. 11, 12, 27, 42, 81, 98, 105, 111, (138), 149, 150, 151, 155, 159, 160, (169)
- 5 reports not received: Conventions Nos. 88, 130, 142, 144, 148

Djibouti

45 reports requested

- No reports received: Conventions Nos. 1, 5, 9, 11, 12, 16, 17, 18, 19, 26, 29, 37, 38, 44, 45, 52, 53, 55, 58, 63, 69, 73, 77, 78, 81, 87, 88, 89, 91, 94, 95, 96, 98, 99, 100, 101, 105, 106, 108, 115, 120, 122, 124, 125, 126

Dominica

13 reports requested

- 7 reports received: Conventions Nos. 8, 26, 29, 87, 97, 100, 108
- 6 reports not received: Conventions Nos. 11, 12, 81, 98, 105, 111

Dominican Republic

7 reports requested

- All reports received: Conventions Nos. 81, 89, 98, 105, 111, 159, 171

Ecuador **12 reports requested**

- All reports received: Conventions Nos. 11, 81, 98, 105, 111, 121, 127, 144, 148, 149, 159, 162

Egypt **16 reports requested**

- All reports received: Conventions Nos. 11, 17, 18, 63, 81, 89, 96, 98, 105, 111, 139, 144, 148, 149, 150, 159

El Salvador **12 reports requested**

- 11 reports received: Conventions Nos. 12, 77, 78, 99, 105, 111, 131, 141, 144, 159, 160
- 1 report not received: Convention No. 81

Equatorial Guinea **5 reports requested**

- No reports received: Conventions Nos. 1, 30, (68), (92), 100

Estonia **6 reports requested**

- All reports received: Conventions Nos. 11, 12, 41, 98, 105, 144

Ethiopia **8 reports requested**

- No reports received: Conventions Nos. 11, 87, 98, 111, 155, 156, 158, 159

Fiji **10 reports requested**

- 1 report received: Convention No. 98
- 9 reports not received: Conventions Nos. 8, 11, 12, 29, 45, 59, 85, 105, 108

Finland **23 reports requested**

- All reports received: Conventions Nos. 11, 12, 81, 98, 105, 111, 121, 144, 148, 149, 150, 151, 154, 155, 156, 158, 159, 160, 161, 162, 164, (167), (176)

France **37 reports requested**

- 26 reports received: Conventions Nos. 8, 11, 12, 35, 36, 37, 38, 42, 45, 81, 88, 92, 96, 98, 100, 108, 111, 129, 133, 139, 142, 146, 149, 156, 158, 159
- 11 reports not received: Conventions Nos. 17, 27, 63, 82, 105, 126, 127, 137, 144, 147, 148

Gabon **19 reports requested**

- 8 reports received: Conventions Nos. 5, 29, 45, 87, 96, 98, 99, 100
- 11 reports not received: Conventions Nos. 11, 12, 41, 81, 105, 111, 135, 144, 150, 154, 158

Georgia **9 reports requested**

- No reports received: Conventions Nos. 29, 98, 100, (105), 111, (117), 122, (138), 142

Germany **14 reports requested**

- All reports received: Conventions Nos. 11, 12, 81, 98, 105, 111, 121, 144, 148, 150, 159, 160, 161, 162

Ghana **26 reports requested**

- 12 reports received: Conventions Nos. 8, 22, 30, 45, 58, 74, 87, 94, 98, 105, 108, 117
- 14 reports not received: Conventions Nos. 11, 29, 69, 81, 88, 89, 92, 100, 103, 111, 148, 149, 150, 151

Greece **15 reports requested**

- All reports received: Conventions Nos. 11, 17, 42, 81, 98, 105, 111, 144, 149, 150, 151, 154, 156, 159, 160

Grenada **18 reports requested**

- 2 reports received: Conventions Nos. (87), (144)
- 16 reports not received: Conventions Nos. 5, 8, 10, 11, 12, 16, 19, 26, 29, 58, 81, 98, 99, (100), 105, 108

Guatemala **18 reports requested**

- All reports received: Conventions Nos. 11, 29, 81, 89, 98, 103, 105, 111, 127, 144, 148, 149, 154, 156, 159, 160, 161, 162

Guinea

23 reports requested

- No reports received: Conventions Nos. 5, 11, 29, 45, 81, 87, 89, 98, 100, 105, 111, 117, 121, 122, 136, 142, 144, 148, 149, 150, 151, 156, 159

Guinea-Bissau

24 reports requested

- 4 reports received: Conventions Nos. 12, 89, 98, 105
- 20 reports not received: Conventions Nos. 1, 7, 17, 18, 19, 26, 27, 29, 45, 68, 69, 73, 74, 81, 88, 91, 92, 100, 108, 111

Guyana

13 reports requested

- All reports received: Conventions Nos. 5, 11, 12, 42, 81, 98, 105, 111, 144, 149, 150, 151, (175)

Haiti

13 reports requested

- All reports received: Conventions Nos. 1, 5, 12, 17, 29, 30, 42, 81, 87, 98, 100, 105, 111

Honduras

6 reports requested

- All reports received: Conventions Nos. 42, 81, 87, 98, 105, 111

Hungary

18 reports requested

- All reports received: Conventions Nos. 12, 17, 42, 81, 98, 105, 111, 127, 139, 142, 144, 148, 151, 154, 155, 159, 161, 165

Iceland

7 reports requested

- All reports received: Conventions Nos. 11, 98, 105, 111, 144, 155, 159

India

9 reports requested

- All reports received: Conventions Nos. 11, 16, 29, 42, 81, 89, 111, 144, 160

Indonesia

2 reports requested

- All reports received: Conventions Nos. 98, 144

Islamic Republic of Iran

4 reports requested

- 1 report received: Convention No. 105
- 3 reports not received: Conventions Nos. 108, 111, 122

Iraq

26 reports requested

- 12 reports received: Conventions Nos. 8, 17, 29, 98, 100, 105, 111, 136, 138, 142, 149, 167
- 14 reports not received: Conventions Nos. 11, 16, 27, 42, 81, 88, 89, 137, 144, 147, 148, 150, 152, 153

Ireland

11 reports requested

- 10 reports received: Conventions Nos. 11, 12, 81, 98, 105, 121, 139, 144, 155, 159
- 1 report not received: Convention No. 160

Israel

6 reports requested

- 4 reports received: Conventions Nos. 81, 98, 105, (147)
- 2 reports not received: Conventions Nos. 111, 150

Italy

19 reports requested

- All reports received: Conventions Nos. 4, 11, 12, 32, 42, 81, 92, 98, 105, 111, 118, 127, 133, 144, 148, 149, 150, 151, 160

Jamaica

8 reports requested

- 2 reports received: Conventions Nos. 81, 105
- 6 reports not received: Conventions Nos. 11, 98, 111, (144), 149, 150

Japan

5 reports requested

- All reports received: Conventions Nos. 81, 98, 121, 156, 159

Jordan

4 reports requested

- All reports received: Conventions Nos. 81, 98, 105, 111

Kazakhstan **2 reports requested**

* All reports received: Conventions Nos. 148, 155

Kenya **14 reports requested**

* 10 reports received: Conventions Nos. 2, 11, 12, 29, 81, 88, 89, 98, 142, 144
* 4 reports not received: Conventions Nos. 17, 63, 105, 149

Republic of Korea **4 reports requested**

* All reports received: Conventions Nos. 81, (100), (150), (160)

Kuwait **5 reports requested**

* All reports received: Conventions Nos. 81, 87, 89, 105, 111

Kyrgyzstan **30 reports requested**

* No reports received: Conventions Nos. 11, 16, 27, 29, 32, 45, 47, 69, 73, 87, 92, 98, 100, 103, 108, 111, 113, 119, 120, 122, 126, (133), 134, 138, 142, 147, 148, 149, 159, 160

Lao People's Democratic Republic **1 report requested**

* No reports received: Convention No. 4

Latvia **38 reports requested**

* 31 reports received: Conventions Nos. 3, 5, 11, 12, 13, 17, 18, (81), 87, 98, 100, 105, 106, (111), 115, 119, 120, (122), (129), 131, (132), (135), 142, 144, 149, 150, (151), (154), (155), (158), 160
* 7 reports not received: Conventions Nos. 7, 8, 9, 16, 19, 108, 148

Lebanon **8 reports requested**

* All reports received: Conventions Nos. 17, 58, 81, 89, 98, 105, 111, 127

Lesotho **2 reports requested**

* No reports received: Conventions Nos. 11, 98

Liberia **17 reports requested**

* 12 reports received: Conventions Nos. 22, 29, 53, 58, 87, 92, 98, 105, 111, 112, 113, 114
* 5 reports not received: Conventions Nos. 23, 55, 108, (133), 147

Libyan Arab Jamahiriya **22 reports requested**

* No reports received: Conventions Nos. 1, 14, 29, 52, 53, 81, 88, 89, 95, 96, 98, 100, 102, 103, 105, 111, 118, 121, 122, 128, 130, 138

Lithuania **13 reports requested**

* All reports received: Conventions Nos. 4, 11, (73), 81, 98, 105, (108), 111, 127, 144, 154, 159, 171

Luxembourg **6 reports requested**

* All reports received: Conventions Nos. 11, 12, 81, 98, 105, 121

Madagascar **18 reports requested**

* 9 reports received: Conventions Nos. 5, 26, 81, 87, 117, 119, 120, 122, 129
* 9 reports not received: Conventions Nos. 11, 12, 29, 41, 100, 111, 118, 127, (144)

Malawi **13 reports requested**

* 10 reports received: Conventions Nos. 45, 81, 98, 100, 111, 129, 144, 149, 158, 159
* 3 reports not received: Conventions Nos. 11, 12, 89

Malaysia **6 reports requested**

* 2 reports received: Conventions Nos. 81, 119
* 4 reports not received: Conventions Nos. 29, 98, (100), (138)

Peninsular Malaysia **4 reports requested**

* No reports received: Conventions Nos. 11, 12, 17, 45

Sabah **1 report requested**

* No reports received: Convention No. 16

Sarawak
4 reports requested

- No reports received: Conventions Nos. 7, 11, 12, 16

Mali
17 reports requested

- 10 reports received: Conventions Nos. 26, 29, 81, 87, 98, 100, 105, 111, (135), (159)
- 7 reports not received: Conventions Nos. 5, 11, 17, 18, 41, (141), (151)

Malta
31 reports requested

- 15 reports received: Conventions Nos. 1, 29, 32, 45, 81, 87, 98, 100, 105, 119, 127, 129, 131, 136, 148
- 16 reports not received: Conventions Nos. 2, 8, 11, 12, 16, 19, 42, 88, 96, 108, 111, 117, 135, 141, 149, 159

Mauritania
21 reports requested

- 7 reports received: Conventions Nos. 3, 81, 87, 102, 111, 118, 122
- 14 reports not received: Conventions Nos. 5, 11, 17, 18, 19, 29, 33, 58, 84, 89, 91, 96, (105), 112

Mauritius
10 reports requested

- All reports received: Conventions Nos. 11, 12, 17, 42, 81, 98, 105, 144, 160, 175

Mexico
13 reports requested

- All reports received: Conventions Nos. 11, 12, 17, 42, 87, 105, 111, 118, 144, 150, 155, 160, 161

Republic of Moldova
17 reports requested

- All reports received: Conventions Nos. (47), (81), (87), (88), (95), (98), (103), (105), (111), (117), (122), (127), (129), (135), (144), (154), (158)

Mongolia
8 reports requested

- 4 reports received: Conventions Nos. 87, 98, 100, 111
- 4 reports not received: Conventions Nos. 59, 103, 122, (135)

Morocco
12 reports requested

- All reports received: Conventions Nos. 11, 12, 17, 26, 41, 42, 81, 98, 105, 111, 122, 158

Mozambique
8 reports requested

- All reports received: Conventions Nos. 11, 17, 18, 81, 98, 105, 111, 144

Myanmar
12 reports requested

- 7 reports received: Conventions Nos. 11, 17, 26, 29, 42, 63, 87
- 5 reports not received: Conventions Nos. 1, 2, 16, 19, 27

Namibia
5 reports requested

- All reports received: Conventions Nos. 87, 98, 144, 150, 158

Nepal
6 reports requested

- 2 reports received: Conventions Nos. 100, 111
- 4 reports not received: Conventions Nos. 98, 131, (138), 144

Netherlands
18 reports requested

- 17 reports received: Conventions Nos. 11, 12, 44, 45, 81, 98, 105, 111, 121, 144, 150, 151, 154, 155, 156, 159, (174)
- 1 report not received: Convention No. 160

New Zealand
11 reports requested

- 9 reports received: Conventions Nos. 11, 12, 17, 42, 44, 63, 81, 111, 144
- 2 reports not received: Conventions Nos. 29, 105

Nicaragua
12 reports requested

- All reports received: Conventions Nos. 4, 11, 12, 17, 18, 63, 98, 105, 111, 127, 139, 144

Niger
18 reports requested

- No reports received: Conventions Nos. 11, 18, 41, 81, 87, 98, 105, 111, 117, 119, 131, 135, 138, 142, 148, 154, 156, 158

Nigeria **17 reports requested**
- 9 reports received: Conventions Nos. 19, 45, 58, 59, 81, 87, 98, (144), 155
- 8 reports not received: Conventions Nos. 8, 11, 26, 29, 88, 100, 105, 133

Norway **19 reports requested**
- All reports received: Conventions Nos. 11, 12, 42, 81, 98, 105, 111, 144, 148, 149, 150, 151, 154, 155, 156, 159, 160, 162, 168

Pakistan **9 reports requested**
- All reports received: Conventions Nos. 11, 18, 81, 89, 98, 105, 111, 144, 159

Panama **18 reports requested**
- All reports received: Conventions Nos. 11, 12, 17, 30, 42, 68, 81, 88, 89, 96, 98, 105, 111, 114, 117, 127, 159, 160

Papua New Guinea **8 reports requested**
- All reports received: Conventions Nos. 8, 11, 12, 27, 42, 85, 98, 105

Paraguay **19 reports requested**
- All reports received: Conventions Nos. 1, 11, 29, 30, 59, 60, 81, 87, 89, 98, 100, 105, 111, 117, 119, 120, 122, 159, 169

Peru **11 reports requested**
- All reports received: Conventions Nos. 11, 12, 67, 71, 81, 98, 105, 111, 151, 156, 159

Philippines **14 reports requested**
- 13 reports received: Conventions Nos. 17, 88, 89, 98, 100, 105, 110, 111, 122, 141, 144, 149, 159
- 1 report not received: Convention No. 59

Poland **13 reports requested**
- All reports received: Conventions Nos. 11, 12, 17, 42, 81, 98, 105, 111, 127, 144, 149, 151, 160

Portugal **20 reports requested**
- All reports received: Conventions Nos. 11, 12, 17, 18, 81, 98, 102, 105, 111, 127, 144, 148, 149, 150, 151, 155, 156, 158, 160, 171

Qatar **2 reports requested**
- All reports received: Conventions Nos. 81, 111

Romania **9 reports requested**
- All reports received: Conventions Nos. 11, 81, 89, 98, 111, 127, 137, 144, 154

Russian Federation **11 reports requested**
- All reports received: Conventions Nos. 11, 29, 95, 98, 108, 111, 147, 148, 149, 159, 160

Rwanda **13 reports requested**
- All reports received: Conventions Nos. 11, 12, 17, 19, 26, 42, 81, 87, 89, 98, 100, 105, 111

Saint Lucia **21 reports requested**
- No reports received: Conventions Nos. 5, 7, 8, 11, 12, 14, 16, 17, 19, 26, 29, 87, 94, 95, 97, 98, 100, 101, 105, 108, 111

Saint Vincent and the Grenadines **7 reports requested**
- All reports received: Conventions Nos. (5), (7), (10), (11), (12), (16), (19)

San Marino **13 reports requested**
- 10 reports received: Conventions Nos. 98, 138, 144, 148, 150, 151, 156, 159, 160, 161
- 3 reports not received: Conventions Nos. 105, 111, 154

Sao Tome and Principe **11 reports requested**
- No reports received: Conventions Nos. 17, 18, 81, 87, 88, 98, 100, 106, 111, 144, 159

Saudi Arabia **4 reports requested**

- All reports received: Conventions Nos. 81, 89, 105, 111

Senegal **17 reports requested**

- 14 reports received: Conventions Nos. 5, 11, 26, 29, 81, 87, 96, 98, 100, 102, 105, 111, 117, 121
- 3 reports not received: Conventions Nos. 12, 89, 122

Seychelles **10 reports requested**

- All reports received: Conventions Nos. 2, 5, 8, 11, 16, 29, 87, 105, 108, (149)

Sierra Leone **26 reports requested**

- No reports received: Conventions Nos. 8, 16, 17, 19, 22, 26, 29, 32, 45, 58, 59, 81, 87, 88, 94, 95, 98, 99, 100, 101, 105, 111, 119, 125, 126, 144

Singapore **4 reports requested**

- All reports received: Conventions Nos. 11, 12, 81, 98

Slovakia **16 reports requested**

- 5 reports received: Conventions Nos. (105), 111, 130, (138), (144)
- 11 reports not received: Conventions Nos. 11, 12, 17, 42, 89, 98, 148, 155, 159, 160, 161

Slovenia **17 reports requested**

- 9 reports received: Conventions Nos. 11, 12, 81, 89, 98, 100, (105), 111, 158
- 8 reports not received: Conventions Nos. 121, 122, 148, 155, 156, 159, 161, 162

Solomon Islands **9 reports requested**

- No reports received: Conventions Nos. 8, 11, 12, 29, 42, 45, 81, 84, 108

Somalia **13 reports requested**

- No reports received: Conventions Nos. 16, 17, 19, 22, 23, 29, 45, 84, 85, 94, 95, 105, 111

South Africa **7 reports requested**

- 6 reports received: Conventions Nos. (29), 42, 89, 98, (105), (111)
- 1 report not received: Convention No. 63

Spain **24 reports requested**

- All reports received: Conventions Nos. 4, 11, 12, 17, 42, 81, 98, 105, 111, 127, 131, 144, 148, 150, 151, 154, 155, 156, 158, 159, 160, 162, 173, (176)

Sri Lanka **12 reports requested**

- 11 reports received: Conventions Nos. 5, 11, 18, 81, 96, 98, 100, 103, 135, 144, 160
- 1 report not received: Convention No. 108

Sudan **6 reports requested**

- All reports received: Conventions Nos. 29, 81, 98, 105, 111, 122

Suriname **12 reports requested**

- All reports received: Conventions Nos. 11, 17, 41, 42, 81, 98, 105, 118, 144, 150, 151, 154

Swaziland **11 reports requested**

- 1 report received: Convention No. 96
- 10 reports not received: Conventions Nos. 11, 12, 81, 89, 98, 100, 105, 111, 144, 160

Sweden **25 reports requested**

- 1 report received: Convention No. 144
- 24 reports not received: Conventions Nos. 11, 12, 81, 98, 105, 111, 121, 147, 148, 149, 150, 151, 154, 155, 156, 157, 158, 159, 160, 161, 162, 164, 174, (176)

Switzerland **12 reports requested**

- All reports received: Conventions Nos. 11, 18, 81, 105, 111, 150, 151, 154, 159, 160, 162, 173

Syrian Arab Republic **12 reports requested**

- 2 reports received: Conventions Nos. 98, 144
- 10 reports not received: Conventions Nos. 11, 17, 18, 19, 63, 81, 89, 105, 111, 118

Tajikistan **23 reports requested**

- 16 reports received: Conventions Nos. 27, 29, 45, 47, 87, 92, 98, 103, 108, 111, 122, 126, 133, 142, 147, 160
- 7 reports not received: Conventions Nos. 11, 100, 119, 120, 148, 149, 159

United Republic of Tanzania **16 reports requested**

- 7 reports received: Conventions Nos. 29, 59, 98, 105, 131, 134, 144
- 9 reports not received: Conventions Nos. 11, 12, 17, 63, 84, 137, 142, 148, 149

Tanganyika **3 reports requested**

- 2 reports received: Conventions Nos. 81, 108
- 1 report not received: Convention No. 45

Zanzibar **4 reports requested**

- No reports received: Conventions Nos. 5, 58, 85, 97

Thailand **3 reports requested**

- All reports received: Conventions Nos. 88, 105, 127

The former Yugoslav Republic of Macedonia **25 reports requested**

- No reports received: Conventions Nos. 8, 11, 12, 27, 29, 45, 81, 87, 88, 89, 98, 100, 111, 121, 122, 129, 136, 142, 148, 155, 156, 158, 159, 161, 162

Togo **9 reports requested**

- 8 reports received: Conventions Nos. 11, 29, 41, 85, 87, 100, 111, 144
- 1 report not received: Convention No. 98

Trinidad and Tobago **6 reports requested**

- No reports received: Conventions Nos. 85, 98, (100), 105, 111, 144

Tunisia **13 reports requested**

- All reports received: Conventions Nos. 11, 12, 17, 18, 81, 89, 98, 105, 111, 127, 138, 150, 159

Turkey **12 reports requested**

- All reports received: Conventions Nos. 11, 26, 42, 81, 98, 105, 111, 118, 127, 144, 151, 158

Turkmenistan **6 reports requested**

- No reports received: Conventions Nos. (29), (87), (98), (100), (105), (111)

Uganda **15 reports requested**

- 14 reports received: Conventions Nos. 5, 11, 12, 17, 29, 45, 81, 98, 105, 122, 144, 154, 158, 159
- 1 report not received: Convention No. 162

Ukraine **9 reports requested**

- All reports received: Conventions Nos. 11, 98, 111, 144, 147, 149, 154, 158, 160

United Arab Emirates **4 reports requested**

- All reports received: Conventions Nos. 81, 89, (100), 105

United Kingdom **14 reports requested**

- All reports received: Conventions Nos. 11, 12, 16, 17, 29, 42, 81, 98, 105, 144, 148, 150, 151, 160

United States **4 reports requested**

- All reports received: Conventions Nos. 105, 144, 150, 160

Uruguay **22 reports requested**

- 5 reports received: Conventions Nos. 11, 95, 105, 144, 172
- 17 reports not received: Conventions Nos. 63, 81, 98, 111, 120, 121, 131, 148, 149, 150, 151, 154, 155, 156, 159, 161, 162

Uzbekistan **11 reports requested**

- No reports received: Conventions Nos. (29), (47), (52), (98), (100), (103), (105), (111), (122), (135), (154)

Venezuela **14 reports requested**

- All reports received: Conventions Nos. 11, 41, 81, 98, 105, 111, 121, 127, 144, 149, 150, 155, 156, 158

Viet Nam **4 reports requested**

- All reports received: Conventions Nos. 81, (100), (111), 155

Yemen **9 reports requested**

- 3 reports received: Conventions Nos. 19, 156, 159
- 6 reports not received: Conventions Nos. 81, 94, 98, 105, 111, 158

Zambia **19 reports requested**

- 16 reports received: Conventions Nos. 11, 12, 17, 18, 29, 89, 98, 105, 111, 144, 148, 149, 151, 154, 158, 159
- 3 reports not received: Conventions Nos. 95, 122, 150

Zimbabwe **2 reports requested**

- All reports received: Conventions Nos. 81, 144

Grand Total

A total of 2,290 reports were requested, of which 1,406 reports (61.40 per cent) were received.

Appendix II. Statistical table of reports received on ratified Conventions as of 10 December 1999

(article 22 of the Constitution)

Conference Year	Reports requested	Reports received at the date requested		Reports received in time for the session of the Committee of Experts		Reports received in time for the session of the Conference	
1932	447	-		406	90.8%	423	94.6%
1933	522	-		435	83.3%	453	86.7%
1934	601	-		508	84.5%	544	90.5%
1935	630	-		584	92.7%	620	98.4%
1936	662	-		577	87.2%	604	91.2%
1937	702	-		580	82.6%	634	90.3%
1938	748	-		616	82.4%	635	84.9%
1939	766	-		588	76.8%	-	
1944	583	-		251	43.1%	314	53.9%
1945	725	-		351	48.4%	523	72.2%
1946	731	-		370	50.6%	578	79.1%
1947	763	-		581	76.1%	666	87.3%
1948	799	-		521	65.2%	648	81.1%
1949	806	134	16.6%	666	82.6%	695	86.2%
1950	831	253	30.4%	597	71.8%	666	80.1%
1951	907	288	31.7%	507	77.7%	761	83.9%
1952	981	268	27.3%	743	75.7%	826	84.2%
1953	1026	212	20.6%	840	75.7%	917	89.3%
1954	1175	268	22.8%	1077	91.7%	1119	95.2%
1955	1234	283	22.9%	1063	86.1%	1170	94.8%
1956	1333	332	24.9%	1234	92.5%	1283	96.2%
1957	1418	210	14.7%	1295	91.3%	1349	95.1%
1958	1558	340	21.8%	1484	95.2%	1509	96.8%
As a result of a decision by the Governing Body, detailed reports were requested as from 1959 until 1976 only on certain Conventions.							
1959	995	200	20.4%	864	86.8%	902	90.6%
1960	1100	256	23.2%	838	76.1%	963	87.4%
1961	1362	243	18.1%	1090	80.0%	1142	83.8%
1962	1309	200	15.5%	1059	80.9%	1121	85.6%
1963	1624	280	17.2%	1314	80.9%	1430	88.0%
1964	1495	213	14.2%	1268	84.8%	1356	90.7%
1965	1700	282	16.6%	1444	84.9%	1527	89.8%
1966	1562	245	16.3%	1330	85.1%	1395	89.3%
1967	1883	323	17.4%	1551	84.5%	1643	89.6%
1968	1647	281	17.1%	1409	85.5%	1470	89.1%
1969	1821	249	13.4%	1501	82.4%	1601	87.9%
1970	1894	360	18.9%	1463	77.0%	1549	81.6%
1971	1992	237	11.8%	1504	75.5%	1707	85.6%
1972	2025	297	14.6%	1572	77.6%	1753	86.5%
1973	2048	300	14.6%	1521	74.3%	1691	82.5%
1974	2189	370	16.5%	1854	84.6%	1958	89.4%
1975	2034	301	14.8%	1663	81.7%	1764	86.7%
1976	2200	292	13.2%	1831	83.0%	1914	87.0%

Conference Year	Reports requested	Reports received at the date requested		Reports received in time for the session of the Committee of Experts		Reports received in time for the session of the Conference	
As a result of a decision by the Governing Body (November 1976), detailed reports were requested as from 1977 until 1994, according to certain criteria, at yearly, two-yearly or four-yearly intervals.							
1977	1529	215	14.0%	1120	73.2%	1328	87.0%
1978	1701	251	14.7%	1289	75.7%	1391	81.7%
1979	1593	234	14.7%	1270	79.8%	1376	86.4%
1980	1581	168	10.6%	1302	82.2%	1437	90.8%
1981	1543	127	8.1%	1210	78.4%	1340	86.7%
1982	1695	332	19.4%	1382	81.4%	1493	88.0%
1983	1737	236	13.5%	1388	79.9%	1558	89.6%
1984	1669	189	11.3%	1286	77.0%	1412	84.6%
1985	1666	189	11.3%	1312	78.7%	1471	88.2%
1986	1752	207	11.8%	1388	79.2%	1529	87.3%
1987	1793	171	9.5%	1408	78.4%	1542	86.0%
1988	1636	149	9.0%	1230	75.9%	1384	84.4%
1989	1719	196	11.4%	1256	73.0%	1409	81.9%
1990	1958	192	9.8%	1409	71.9%	1639	83.7%
1991	2010	271	13.4%	1411	69.9%	1544	76.8%
1992	1824	313	17.1%	1194	65.4%	1384	75.8%
1993	1906	471	24.7%	1233	64.6%	1473	77.2%
1994	2290	370	16.1%	1573	68.7%	1879	82.0%
As a result of a decision by the Governing Body (November 1993), detailed reports on only five Conventions were exceptionally requested in 1995.							
1995	1252	479	38.2%	824	65.8%	988	78.9%
As a result of a decision by the Governing Body (November 1993), reports are henceforth requested, according to certain criteria, at yearly, two-yearly or five-yearly intervals.							
1996	1806	362	20.5%	1145	63.3%	1413	78.2%
1997	1927	553	28.7%	1211	62.8%	1438	74.6%
1998	2036	463	22.7%	1264	62.1%	1455	71.4%
1999	2290	520	22.7%	1406	61.4%		

II. Observations on the application of Conventions in non-metropolitan territories

(article 22 and article 35, paragraphs 6 and 8, of the Constitution)

A. General observations

Requests regarding certain points are being addressed directly to the following States: *Denmark* (Faeroe Islands), *France* (French Guiana, Guadeloupe, Martinique), *Netherlands* (Aruba, Netherlands Antilles).

B. Individual observations

Convention No. 2: Unemployment, 1919

A request regarding certain points is being addressed to the *Netherlands* (Aruba).

Convention No. 5: Minimum Age (Industry), 1919

A request regarding certain points is being addressed directly to *France* (St. Pierre and Miquelon).

Convention No. 8: Unemployment Indemnity (Shipwreck), 1920

France

French Southern and Antarctic Territories

In its earlier comments, the Committee drew the Government's attention to the lack of provisions regarding indemnity to be paid to seamen in the event of shipwreck in the legislation applying to vessels registered in the French Southern and Antarctic Territories, namely the Overseas Labour Code of 1952 and Chapter VI, section 26 of Act No. 96-151, with respect to the registration of vessels in these territories. It notes that the Government's report reveals no progress in adoption of regulations to make good these gaps in the legislation. The Committee is therefore obliged to remind the Government that under *Article 2 of the Convention*, in the event of loss or foundering of the vessel, an unemployment indemnity must be paid for the days during which the seaman remains in fact unemployed at the same rate as the wages payable under the contract, for at least two months. The Committee trusts that measures will be adopted in the near future to ensure full application of the Convention to French Southern and Antarctic Territories, and requests the Government to submit a copy of any text adopted in this connection.

[The Government is asked to report in detail in 2001.]

United Kingdom

Anguilla

The Committee again observes that the Government's report does not provide any reply to its earlier comments concerning the application to Anguilla of section 37 of the 1979 United Kingdom Merchant Shipping Act, which amended section 15 of the 1970 United Kingdom Merchant Shipping Act, removing the possibility to deprive seamen of the right to unemployment indemnity where they have failed to exert reasonable efforts to save the ship, persons and cargo.

The Committee trusts that the Government will be able to indicate in its next report whether measures have been taken to extend the abovementioned section 37 of the 1979 Merchant Shipping Act to Anguilla, so as to guarantee to seamen payment of unemployment indemnity for a period of at least two months in the event of loss or foundering of the vessel, and if so, to communicate the relevant text.

Falkland Islands (Malvinas)

In its earlier comments, the Committee noted the Government's indication that the United Kingdom Merchant Shipping Act 1970 (Overseas Territories) Order 1998 has brought the Falkland Islands within the scope of section 15 of the above Act (as amended by section 37 of the United Kingdom Merchant Shipping Act, 1979). However, the Government indicates in its last report that under the abovementioned section 15, in the event of shipwreck the seamen shall receive an unemployment indemnity equivalent to two month's wages *unless it is proved that they have failed to exert reasonable efforts to save the ship, persons and cargo.* Under these circumstances, the Committee asks the Government to indicate whether the 1998 Order has or has not extended to the Falkland Islands the application of section 37 of the United Kingdom Merchant Shipping Act 1979.

Montserrat

Referring to the Committee's earlier comments, the Government indicates in its report that the provisions of section 37 of the 1979 United Kingdom Merchant Shipping Act, which amends section 15 of the 1970 United Kingdom Merchant Shipping Act, removing the possibility to deprive seamen of the right to unemployment indemnity where they have failed to exert reasonable efforts to save the ship, persons, and cargo, have not been extended to Montserrat.

The Committee notes this information. It hopes that the Government will be able to re-examine the question and indicate, in its next report, the steps taken to extend to Montserrat the application of section 37 of the 1979 Merchant Shipping Act cited above, so as to ensure to seamen the payment of an unemployment indemnity for a period of at least two months without restriction, in case of loss or foundering of the vessel in conformity with the Convention.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Netherlands* (Aruba and Netherlands Antilles), *United Kingdom* (British Virgin Islands).

Convention No. 9: Placing of Seamen, 1920

A request regarding certain points is being addressed directly to *Denmark* (Faeroe Islands).

Information supplied by *France* (French Polynesia) in answer to a direct request has been noted by the Committee.

Convention No. 12: Workmen's Compensation (Agriculture), 1921

A request regarding certain points is being addressed directly to the *Netherlands* (Aruba).

Convention No. 16: Medical Examination of Young Persons (Sea), 1921

A request regarding certain points is being addressed directly to *Denmark* (Faeroe Islands).

Convention No. 17: Workmen's Compensation (Accidents), 1925

United Kingdom

Anguilla

The Committee notes that the Government's report gives no further particulars in reply to the earlier comments. It must therefore repeat its previous observation which read as follows:

> In its previous comments that it has been making for a number of years, the Committee drew the Government's attention to the fact that the Workmen's Compensation Ordinance No. 21 of 1955, as amended, contains provisions contrary to the following Articles of the Convention:
>
> 1. *Article 2, paragraph 1, of the Convention* (in relation with *Article 2, paragraph 2(d)*). Section 2(1)(a) of the Workmen's Compensation Ordinance excludes from its scope *manual workers* whose earnings exceed a certain limit, whereas the Convention does not authorize any exclusion of manual workers but only that of *non-manual workers*.
>
> 2. *Article 5.* In the event of death or permanent incapacity, section 8(a), (b) and (c) of the Workmen's Compensation Ordinance provides only for the payment of a lump sum, whereas Article 5 of the Convention provides that compensation payable to the injured workman or his dependants in case of permanent incapacity or death shall be paid in the form of periodical payments provided that it may be wholly or partially paid in a lump sum if the competent authority is satisfied that it will be properly utilized.
>
> In its last report the Government indicated that, while there has been no change in the legislation, the Board of Directors of Social Security is considering at present the third actuarial evaluation of the Social Security Scheme on Workmen's Compensation/Injury Benefit, prepared with the assistance of the ILO, with a view to selecting the most suitable means of financing; it is expected that this Scheme will be brought into effect in 1994.

The Committee notes this information with interest. It hopes that the Government will be able to introduce the above Scheme in the near future and that the regulations to be adopted to this effect will ensure full application of the Convention, in particular on the abovementioned points. The Committee asks the Government to indicate any progress made in this respect in its next report.

The Committee hopes that the Government will make every effort to take necessary action in the very near future.

Bermuda

Article 5 of the Convention. With reference to its earlier comments, the Committee notes that the Government again indicates in its report that a complete revision of the Workmen's Compensation Act is anticipated soon and that the legislation will deal with the points covered by *Article 5* of the Convention. It trusts that the Government will take all the necessary measures to undertake revision of the Workmen's Compensation Act, thereby giving effect to this provision of the Convention which provides that the compensation payable to the injured workman, or his dependants, where permanent incapacity or death results from the injury, shall be paid in the form of periodical payments; provided that it may be wholly or partially paid in a lump sum, if the competent authority is satisfied that it will be properly used. The Committee requests the Government to indicate in its next report all progress achieved in this respect.

* * *

In addition, a request regarding certain points is being addressed directly to the *United Kingdom* (Falkland Islands (Malvinas)).

Convention No. 19: Equality of Treatment (Accident Compensation), 1925

France

French Polynesia

Article 1, paragraph 2, of the Convention. For many years the Committee has drawn the attention of the Government to the need to amend section 29 of Decree No. 57-245 of 24 February 1957 on compensation for industrial accidents and occupational diseases, so as to ensure that the nationals of member States that have ratified the Convention, as well as their dependants, are granted the same benefits as nationals, without any condition as to residence. The Government indicates in this connection that the amendment to section 29 of Decree No. 57-245 cited above has not yet been adopted by the French Polynesian authorities. The Committee notes this information with regret, since in 1987 the Minister of Overseas Departments and Territories of France requested the authorities of French Polynesia that such amendment be undertaken and, in 1993, the governing council of the Social Insurance Fund issued the same advice. The Committee therefore trusts that the Government will not fail to take all necessary measures with a view to amending section 29 of Decree No. 57-245 so as to give effect to *Article 1, paragraph 2,* of the Convention. It requests the Government to transmit a copy of any text adopted in this connection.

Convention No. 25: Sickness Insurance (Agriculture), 1927

A request regarding certain points is being addressed directly to the *Netherlands* (Aruba).

Convention No. 29: Forced Labour, 1930

Requests regarding certain points are being addressed directly to the following States: *Netherlands* (Aruba), *United Kingdom* (Gibraltar).

Convention No. 37: Invalidity Insurance (Industry, etc.), 1933

A request regarding certain points is being addressed directly to *France* (French Polynesia).

Convention No. 38: Invalidity Insurance (Agriculture), 1933

A request regarding certain points is being addressed directly to *France* (French Polynesia).

Convention No. 42: Workmen's Compensation (Occupational Diseases) (Revised), 1934

France

French Guiana

The Committee notes that the Government's report has not been received. It therefore asks the Government to refer to the observation it is addressing to metropolitan France with regard to the application of this Convention.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

French Polynesia

With reference to the Committee's earlier comments, the Government states that no new measure has been taken with regard to the application of the Convention. The social partners and the French Polynesian authorities are still involved in the process of adapting and modernizing the labour legislation applicable, a process for which the timetable has been determined in agreement with the social partners. The Committee notes this information. It must again draw the Government's attention to the schedule listing occupational diseases which is annexed to Order No. 826/CM of 6 August 1990, which has the same characteristics as the schedules prescribed in sections L.461-2 and R.461-3 of the French Metropolitan Social Security Code. The Committee trusts that the Government will be able to indicate in its next report that the necessary measures have been taken to ensure that national legislation is in full conformity with the Convention on the following points: (a) the *restricted* nature of the pathological manifestations listed under each of the diseases included in the schedules of the national legislation; (b) the absence from these schedules of an item covering in general terms, as in the Convention, *poisoning by all halogen derivatives of hydrocarbons of the aliphatic series and by all compounds of phosphorus*; and (c) the omission, from among trades likely to cause *primary epitheliomatous cancer of the skin*, of processes involving the handling of certain products mentioned by the Convention.

The Committee also requests the Government to refer to the observation it is addressing to metropolitan France in respect of the application of Convention No. 42.

Guadeloupe

The Committee notes that the Government's report has not been received. It therefore asks the Government to refer to the observation it is addressing to metropolitan France with regard to the application of this Convention.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Martinique

The Committee notes that the Government's report has not been received. It therefore asks the Government to refer to the observation it is addressing to metropolitan France with regard to the application of this Convention.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Réunion

The Committee notes that the Government's report contains no answers to its previous comments. It trusts that the next report of the Government will supply detailed information on the application of the Convention in practice and on the points raised in its previous comments. In this connection, the Committee refers to the observation it is addressing to metropolitan France in respect of the application of Convention No. 42.

[The Government is asked to report in detail in 2000.]

St. Pierre and Miquelon

The Committee notes that the Government's report has not been received. It therefore repeat its previous observation which read as follows:

> In reply to the Committee's previous comments, the Government states again that the schedule of occupational diseases in force for the Metropol and overseas departments does not apply *ipso facto* to the Territorial Community of St. Pierre and Miquelon which has full competence, under section 44 of the Decree of 24 February 1957, to decide on the extensions to the orders making them applicable within its territorial jurisdiction. In these circumstances, the French Government can only use its influence to persuade the community to issue orders extending the schedule in question, permitting compensation for the pathological manifestations referred to in *Article 2 of the Convention*. It adds moreover that the territorial community of 6,000 inhabitants which has apparently not recorded occupational diseases seems to be in no hurry to issue such an extension.

> While noting this information, the Committee trusts that the Government will do its utmost to draw the attention of the Territorial Community to the need to take suitable measures to give effect to this Convention which has been applicable to St. Pierre and Miquelon since 1974.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

United Kingdom

Gibraltar

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> In its previous comments, the Committee drew the Government's attention to the fact that (1) the schedule of occupational diseases annexed to the Employment Injuries Insurance (Occupational Diseases) (Amendment) Regulations restricts the activities likely to cause anthrax infection to the loading, unloading or transport of animal products or residues or contact with animals infected with anthrax, whereas the Convention is drawn up in more general terms and also includes the loading, unloading or transport of merchandise; (2) the national schedule does not mention poisoning by certain halogen derivatives of hydrocarbons of the aliphatic series, whereas the Convention covers all these substances; (3) the national schedule covers only certain disorders caused by ionizing radiation, whereas the Convention covers *all* pathological manifestations due to X-rays, radium and other radioactive substances.
>
> In its reply, the Government states that the Local Health Committee continues to consider that Gibraltar should follow the United Kingdom on the points raised pertaining to anthrax infection and to disorders caused by ionizing radiation. It adds, however, that it will be taking the necessary steps to amend the said Regulations so as to conform with the Convention. The Committee notes this declaration with interest. It therefore once again hopes that the Government will not fail to complete in the near future the national schedule of occupational diseases in respect of these abovementioned points.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

* * *

In addition, a request regarding certain points is being addressed directly to *France* (New Caledonia).

Convention No. 44: Unemployment Provision, 1934

France

French Polynesia

For many years, the Committee has drawn the Government's attention to the need to adopt regulations determining the modality of implementing the principle of assistance to persons who are involuntarily unemployed, as set out in section 48 of Act No. 86-845 of 17 July 1986 and section 18 of Resolution No. 91-029/AT of 24 July 1991 pertaining to placement and employment. The Committee notes with regret that, according to the information supplied by the Government, the territorial assembly of

French Polynesia has still not adopted the abovementioned regulations. In these circumstances, the Committee can do no more than remind the Government once again that in the absence of a text implementing the principle of assistance to workers who are involuntarily unemployed, application of the Convention is not ensured. It again expresses the hope that the Government will take all necessary measures to adopt in the near future regulations laying down the modality for assistance to persons who are involuntarily unemployed, including those partially unemployed, and that the regulations will make it possible to give effect to all the provisions of the Convention. The Committee requests the Government to send a copy of the regulations as soon as they are adopted.

[The Government is asked to report in detail in 2001.]

New Caledonia

Article 10 of the Convention. With reference to its earlier comments on the conditions of application of section 19 of amended Decision No. 533 of 2 February 1983, the Committee notes with interest the information supplied by the Government that suspension of unemployment benefits for refusal of a job offered by the labour office, under the abovementioned section 19, has never been applied in practice; the parties concerned being simply required to provide explanation. The Government adds that in the absence of any regulatory or administrative provisions or any judicial decisions, the legitimacy of reasons for refusal of employment would be judged according to metropolitan texts and circulars. The Committee nevertheless requests the Government to continue to indicate in its next reports whether recourse is made to this provision of the abovementioned section 19. It also requests the Government to supply copies of the abovementioned metropolitan texts and circulars.

* * *

Information supplied by the *United Kingdom* (Jersey) in answer to a direct request has been noted by the Committee.

Convention No. 53: Officers' Competency Certificates, 1936

A request regarding certain points is being addressed directly to *France* (French Polynesia).

Convention No. 59: Minimum Age (Industry) (Revised), 1937

Requests regarding certain points are being addressed directly to the *United Kingdom* (Anguilla, British Virgin Islands, Gibraltar).

Convention No. 63: Statistics of Wages and Hours of Work, 1938

France

New Caledonia

Further to its previous observation, the Committee notes the information provided in the Government's report to the effect that the implementation of surveys to obtain statistical information in the mining and manufacturing industries and in agriculture has encountered practical difficulties. It also notes that the Territorial Institute for Statistics and Economic Studies (ITSEE), in collaboration with the Labour Directorate, envisages the establishment of an employment and wages observatory to support negotiations under sectoral occupational agreements.

The Committee recalls that it has been making comments on this matter for many years. It hopes that the Government will take the necessary measures in the near future to compile statistics of average earnings and of hours actually worked, in accordance with *Part II of the Convention*, and of statistics of wages and hours of work in agriculture, in accordance with *Part IV*. It requests the Government to provide the information available on the measures which have been adopted or are envisaged and, in particular, to keep the ILO informed of the establishment of the planned observatory of employment and wages, and the resulting statistical developments.

* * *

In addition, requests regarding certain points are being addressed directly to *France* (French Polynesia, St. Pierre and Miquelon).

Convention No. 69: Certification of Ships' Cooks, 1946

A request regarding certain points is being addressed directly to *France* (French Polynesia).

Convention No. 81: Labour Inspection, 1947

France

French Guiana

The Committee notes the Government's reports for the periods ending successively in June 1996 and June 1997. It also notes the observation made by the French Democratic Confederation of Labour (CFDT). The Committee notes the contradiction between, on the one hand, the Government's repeated affirmations under *Part IV of the report form* that the Convention is fully applied and gives rise to no particular comments and, on the other hand, the information concerning the insufficiency of the staff and material means available to the labour inspectorate to cover its needs. The Committee consequently draws the Government's attention to the following points.

1. *Insufficient numbers of labour inspectors.* The Committee notes the information of a general nature on the difficulties encountered by officials of the labour

inspectorate in the discharge of their duties in view of their low numbers. The Government's indication that the inspector is assisted (under normal conditions) by three controllers would also appear to mean that their numbers are not even constant. The Committee also notes the observation made by the CFDT on this matter and considers that a single inspector and three labour controllers cannot be sufficient to meet the needs and are far from satisfying the criteria to be taken into account, in accordance with *Article 10*, in determining a sufficient number of inspectors. Indeed, the application of the Convention depends largely on the manner in which effect is given to *Article 16*, under which workplaces shall be inspected as often and as thoroughly as is necessary to ensure the effective application of the legal provisions which the inspectorate is responsible for supervising. However, the information provided by the Government shows that the lack of inspectors only contributes to negative phenomena, such as illegal work and the illegal immigration of migrant workers, which are accompanying economic development. The Committee emphasizes, as it indicated in paragraph 158 of its 1985 General Survey on labour inspection, that the unexpected nature of the inspection visit is the best guarantee of effective supervision. In practice, the insufficient number of officials in the inspectorate, the distances which they have to cover to carry out inspection visits and the specific nature of the means of transport used (aircraft, pirogues) means that this effectiveness is not ensured. The Committee requests the Government to resolve this situation by taking practical measures to meet the requirements of the Convention, particularly through the proper application of *Article 10*, and to provide the ILO with information on any progress achieved in this respect.

2. *Transport facilities and reimbursement of the travel expenses of labour inspectors.* In its previous reports, the Government has often referred to the inadequacy of the administrative provisions relating to transport facilities and the reimbursement of the additional expenditure incurred by labour inspectors for official travel. It indicates in its latest reports that these provisions are different from the measures which apply in metropolitan France. However, the Government does not specify whether the difference is in response to local conditions. The Committee recalls that, in accordance with *Article 11, paragraph 2*, all travelling and incidental expenses which may be necessary for the performance of their duties shall be reimbursed to labour inspectors and it requests the Government to provide information on the manner in which effect is given to this provision in practice.

3. *Occupational safety in the construction and public works sectors.* The Committee notes that, contrary to the expectations expressed by the Government in 1996, the occupational institution for the prevention of accidents in the construction and public works sectors is still not represented on the territory for the purposes of cooperating, in accordance with *Article 5(a)*, with the labour inspectorate in the above sectors. The Government is requested to provide information on the difficulties which are preventing the achievement of such cooperation and to indicate the manner in which the application of legal provisions is supervised relating to occupational safety and health in establishments carrying on activities which are particularly exposed to the risks of accidents and occupational diseases.

4. *Annual reports of the inspection services.* The Committee notes that, despite its repeated requests, no annual report of the labour inspectorate has yet been received by the ILO. With reference to paragraphs 272 and 273 of its 1985 General Survey on labour inspection, concerning the basic objectives set out in *Articles 20 and 21*, the Committee

once again requests the Government to take the necessary measures to ensure that annual inspection reports, containing information on the subjects enumerated in *Article 21, points (a) to (g)*, are published and transmitted to the ILO within the time limits established in *Article 20*.

French Polynesia

The Committee notes the Government's reports for 1997 and 1999, as well as the reports on the activities of the labour inspection for 1996 and 1997. It observes that the Government's reports do not contain the information requested in its previous observation and that the annual report for 1998 has not been sent.

Monitoring of safety conditions in work on pearl farms. According to the representation made in 1994 under article 24 of the Constitution by the World Federation of Trade Unions, the regulations on training, certification and safety rules adopted by the French Polynesian authorities in 1987 and applicable to underwater divers working in pearl farms, were inadequate, deficient and discriminatory. They might even be to blame for a large number of permanent disabilities and deaths among divers. The Committee requests the Government to report on progress achieved in the revision of regulations relative to professional diving, which should, in the Committee's view, aim to raise the level of protection for professional divers, while taking account of the economic and socio-cultural reality in the territory.

With reference to its earlier observation regarding the inspection of pearl-producing enterprises, the Committee notes that for 1996 and 1997 the total number of criminal proceedings initiated by the national police force was not registered. It again requests the Government to take the steps necessary to ensure that complete information is submitted on all infringements noted in pearl-producing enterprises and on the legal action engaged and the penalties imposed as well as on all action undertaken to give effect to the recommendations' of the Committee responsible for examining the representation mentioned above regarding the application of *Articles 3, 12 and 13 of the Convention,* in activities where professional divers are employed.

Insufficient means of the labour inspection in view of its numerous duties. The annual reports show that the duties for which the inspection services are responsible are beyond their capacities in view of their human, material and financial means. *Articles 10 and 11* of the Convention describe the means needed to ensure the discharge of their principal functions, which are in turn set forth in *Article 3* in conformity with the stipulations of *Articles 12 and 16.* In this connection, the Committee notes with interest that since 1 January 1999 the labour inspection service no longer oversees the Social Security Fund. It hopes that this reduction of duties, together with substantial financial and human inputs, will permit a better application of the legislation regarding safety and health in high risk sectors (building, public works, professional diving), with a view to preventing accidents and reaffirming the credibility of the inspection services, undermined by the neglect suffered by islands other than Tahiti and Moorea, on account of their far-flung position and the high cost of transport. The Government has already stated that the essential difficulty in the application of the Convention arises from insufficient operating funds, investment and inspection personnel. In the opinion of the director of the inspectorate in the 1997 annual report, without the urgent input of adequate operating funds, the solution would be to transport the inspection services to the metropolitan Ministry of Labour, as is the case for inspection services for the overseas departments and territories of Mayotte and St. Pierre and Miquelon. They would, in his view, profit from better operating conditions, as well as all the technical aids available on the metropolitan territory. The Committee noted, in this connection, that on 24 February 1999, the Council of State cancelled the decision criticized by the French Democratic Confederation of Labour (CFDT) in comments submitted to the ILO in October 1998. Under this decision, the territorial authorities had established a labour service under the authority of the Polynesian Government, containing territorial public officials. The Committee would be grateful if the Government would supply information on the lessons learned from the adoption and cancellation of this decision, and the consequences thereof on the current composition and operation of the labour inspection services.

Training of labour inspectors working in the territory. The 1997 annual report reveals serious failings in this field. Inspectors never receive initial training, unlike their counterparts in posts in metropolitan territory, but receive only "on-the-job" training; moreover, the sequences of training provided for other members of the personnel is no longer available since the closure, in 1991, of the Territorial School of Administration. Important needs are expressed for both minimum periodic training, and for inspectors to return by rote for training on metropolitan territory. In its last report, the Government does not mention these shortcomings, since the information it supplies regarding the application of *Articles 6 and 7* of the Convention only concerns labour inspectors. The Committee would be grateful if the Government would provide details on recruitment levels, training and the conditions of service of labour inspectors, as well as on the authority they hold.

Statistics on occupational diseases. The Committee notes the absence of data on cases of occupational diseases, the lack of education of workers regarding the procedures to follow and the scant enthusiasm of the medical corps to assist the workers in this regard. In paragraph 86 of its 1985 General Survey on labour inspection, the Committee stressed that the notification of occupational diseases was not an end in itself but part of the more general aim of accident prevention; that its purpose was to enable the labour inspectors to conduct investigations in the undertaking to establish the causes of work accidents and occupational diseases and to have steps taken to avoid their recurrence. Recalling its 1996 general observation on the application of *Article 14* of the Convention, the Committee hopes that the Government will take measures with a view to ensuring the necessary coordination between the central authorities responsible for health and labour inspection so as to establish an appropriate system for the registering and notification of occupational diseases.

Martinique

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation on the following matters.

> *Articles 3, 11 and 16 of the Convention.* The Committee notes the information given in the Government's report concerning the organization and powers of the labour inspection service within a single structure for industrial, commercial and agricultural sectors. The Committee notes that the tasks of labour inspection are carried out by the departmental director, one labour inspector and four assistant labour inspectors. The Committee notes that, according to the Government, while staffing is sufficient to allow inspection tasks to be

carried out, the large number of administrative tasks and the many different meetings which the inspectors are required to attend prevent them from adequately carrying out their main tasks of inspection, for which they are required to be present at workplaces or receive visits from the social partners. The Committee also notes the information according to which the inspectors do not have a service vehicle for travelling to workplaces. Such a situation indicates that efforts need to be made to ensure the proper application of these provisions of the Convention. The Government is therefore asked to implement measures to relieve labour inspectors of tasks other than those set out in *Article 3, paragraph 1*, and to provide, in accordance with *Article 11, paragraph 1(b)*, the means of transport needed to allow them to comply with the requirements of *Article 16*, under the terms of which workplaces must be inspected as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions, and to provide in its next report any information concerning developments in this regard.

Articles 20 and 21. The Committee notes that no annual report on the activities of the labour inspection service has been received by the ILO. The Committee hopes that in future such reports, publication and transmission of which is required under *Article 20* and the content of which is set out in *Article 21*, will be sent regularly to the Office.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

New Caledonia

The Committee notes the Government's report and the annual reports of the labour inspection services for 1997 and 1998. The Committee draws the Government's attention to the following points.

Article 6 of the Convention. The Committee notes the information concerning the labour inspection personnel. It would be grateful if the Government would supply detailed information on the status and conditions of service of the four labour inspectors working on the territory and specify in particular if they are authorized to serve official notices in cases of infringements.

Article 16. The Committee notes that inspection visits are still becoming less frequent. It also notes that the sole criterion for determining the frequency of visits (number of employees) is not always relevant, and account should also be taken of the nature of the activity practised. Some activities practised in establishments with few employees may be of a dangerous character, calling for particular vigilance from the inspection services. Moreover, due to the small number of employees, workers' associations likely to request the intervention of the labour inspection services where needed, may not be constituted in some enterprises. The Committee would be grateful if the Government would indicate the number of visits carried out relative to the number of enterprises liable to inspection, the number of employees and the branch of activity.

Articles 17 and 18. The Committee notes the large reduction in the number of official reports of offences drawn up between 1997 and 1998 by the inspection services. It also notes that the statistics provided concern only regular visits, and not those made on receipt of complaints. The information that the insignificance of the fines imposed by the courts acts as a disincentive to the labour inspectors to submit official reports of offences, gives cause for concern on several fronts: firstly it removes the principal objective of fines, which is to dissuade employers from contravening the law; secondly, it reduces the authority and credibility of labour inspectors, both in respect of employers and workers; finally, workers are likely to cease denouncing the offences of which they are the first victims. Such a situation is liable to jeopardize the objectives of the Convention. It is therefore of particular importance that measures should be taken as soon as possible to ensure greater collaboration between the labour inspectorate and the judicial authority, for a correct application of the provisions of the Convention. The Committee requests the Government to take such measures as it considers appropriate in this connection and to transmit information on these measures as well as on progress achieved.

Article 20. The Committee requests the Government to state whether the annual inspection reports as submitted to the ILO are published within the time limits required under this Article, to indicate in what manner these reports are made available to the employers and workers as well as to their organizations, so as to allow the basic objectives of this provision, as set forth in paragraphs 272 and 273 of the 1985 General Survey by the Committee of Experts on labour inspection, to be attained.

Article 21. The Committee notes that the annual reports on inspection do not contain certain information indispensable to an adequate understanding of the situation of the fields covered. The statistics on establishments visited *(d)* should include statistics of workplaces liable to inspection *(c)* and should indicate a number of useful details as listed under (c) and (d) of Paragraph 9 of Recommendation No. 81 which supplements this Convention. As regards statistics of occupational accidents and diseases (*Article 21(g) and (f)*), they should be subdivided in the manner indicated in Paragraph 9(f) and (g) of the same Recommendation. The Committee would be grateful if the Government would take measures to ensure the correct implementation of this provision and hopes that the next annual reports of inspection will contain detailed information on the subjects mentioned above.

[The Government is asked to report in detail in 2000.]

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *France* (Guadeloupe), *Netherlands* (Netherlands Antilles), *United Kingdom* (Isle of Man, Jersey).

Convention No. 87: Freedom of Association and Protection of the Right to Organise, 1948

France

French Southern and Antarctic Territories

Articles 3 and 10 of the Convention. Right of workers' organizations to elect their representatives in full freedom for furthering and defending their members' social and economic rights. The Committee has noted the information supplied by the Government in its report and the Government's statement that a draft Decree in Council of State, relating to the right of seafarers' representatives and trade unions, will shortly be submitted for opinion to the social partners and to inter-ministerial consultation. The Government states that under the Metropolitan Maritime Labour Code, the text relates in particular to the appointment of alternate ships' representatives and the enhancement of the right of ships' representatives to enable them to accompany the maritime labour inspector, at his request, during on-board inspections. The Committee takes due note of this information and requests the Government to keep it informed of any developments concerning the draft Decree mentioned above.

* * *

In addition, a request regarding certain points is being addressed directly to the *Netherlands* (Aruba).

Convention No. 89: Night Work (Women) (Revised), 1948

A request regarding certain points is being addressed directly to the *Netherlands* (Aruba).

Convention No. 92: Accommodation of Crews (Revised), 1949

A request regarding certain points is being addressed directly to *Denmark* (Faeroe Islands).

Information supplied by *France* (French Guiana, Guadeloupe, Martinique, Réunion) in answer to a direct request has been noted by the Committee.

Convention No. 94: Labour Clauses (Public Contracts), 1949

A request regarding certain points is being addressed directly to the *Netherlands* (Aruba).

Convention No. 95: Protection of Wages, 1949

A request regarding certain points is being addressed directly to the *Netherlands* (Aruba).

Convention No. 98: Right to Organise and Collective Bargaining, 1949

France

French Southern and Antarctic Territories

The Committee notes the Government's report.

The Committee notes that, according to the Government, the actual situation of crews is generally that French crews are seconded to work on board vessels registered in the French Southern and Antarctic Territories (TAAF) or foreign crews are made available, and each of these two categories is covered by their respective collective agreements. The Government adds that nothing under the Overseas Labour Code precludes the conclusion of collective agreements covering either all seconded crews or only the crews recruited directly.

The Committee notes, however, that the Government has not forwarded the text of the instructions of the Merchant Navy Ministry on the supervision of employment conditions in force on board vessels registered with the TAAF. The Committee, therefore, reiterates its request in this regard.

The Committee also requests the Government to provide practical indications on all the collective agreements which will enter into force. Furthermore, the Committee requests the Government to indicate how seafarers are able to obtain compliance with these agreements, where necessary.

* * *

In addition, requests regarding certain points are being addressed directly to the *United Kingdom* (Guernsey, Isle of Man).

Convention No. 100: Equal Remuneration, 1951

Requests regarding certain points are being addressed directly to the following States: *Australia* (Norfolk Island), *France* (French Guiana, French Polynesia, Guadeloupe, Martinique, Réunion, St. Pierre and Miquelon), *United Kingdom* (Gibraltar).

Information supplied by *France* (New Caledonia) in answer to a direct request has been noted by the Committee.

Convention No. 101: Holidays with Pay (Agriculture), 1952

A request regarding certain points is being addressed directly to the *Netherlands* (Aruba).

Convention No. 105: Abolition of Forced Labour, 1957

A request regarding certain points is being addressed directly to the *Netherlands* (Aruba).

Convention No. 108: Seafarers' Identity Documents, 1958

A request regarding certain points is being addressed directly to the *United Kingdom* (St. Helena).

Convention No. 111: Discrimination (Employment and Occupation), 1958

Requests regarding certain points are being addressed directly to the following States: *France* (French Guiana, French Polynesia, French Southern and Antarctic Territories, Guadeloupe, Martinique, Réunion, St. Pierre and Miquelon), *New Zealand* (Tokelau).

Information supplied by *France* (New Caledonia) in answer to a direct request has been noted by the Committee.

Convention No. 120: Hygiene (Commerce and Offices), 1964

A request regarding certain points is being addressed directly to *France* (French Polynesia).

Convention No. 121: Employment Injury Benefits, 1964 [Schedule I amended in 1980]

A request regarding certain points is being addressed directly to the *Netherlands* (Aruba).

Convention No. 122: Employment Policy, 1964

Netherlands

Aruba

The Committee notes with regret that for the sixth year in succession the Government's report has not been received. It hopes that a report will be supplied for examination by the Committee at its next session and that it will contain full information on the matters raised in its previous direct request, which read as follows:

> The Committee notes that the Tripartite Employment Committee, which was established to deal with the rapid changes in supply and demand on the labour market, held several meetings during the period under review. It requests the Government to continue supplying information on these meetings, their objectives, the opinions expressed and the manner in which they are taken into account. Furthermore, the Committee would be grateful if the Government would supply information on the implementation of the development strategy, particularly within the framework of the implementation of the National Development Plan for 1991-95, with an indication of the manner in which it contributes to the promotion of full employment.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Australia* (Norfolk Island), *Denmark* (Greenland), *France* (French Polynesia), *United Kingdom* (Isle of Man).

Convention No. 127: Maximum Weight, 1967

France

New Caledonia

The Committee notes the information provided by the Government in its report, particularly with regard to the data provided by occupational physicians in the context of a survey.

Articles 3 and 7 of the Convention. The Committee notes from the information obtained from this survey of occupational physicians that heavy loads are generally only handled infrequently, except in the case of certain activities, and particularly removals and the unloading of containers loaded with imported products. Furthermore, in practice, the average weight of loads is lower than 55 kg, except in the case of the lifting of sick persons and their transport on stretchers. With regard to the criteria applied by occupational physicians to conclude that a worker is capable of the manual transport of loads over 55 kg, reference is made to Order No. 1211-T, of 19 March 1993, which gives effect to section 5 of Order No. 34/CP of 23 February 1989 respecting minimum safety and health requirements for the manual transport of loads which constitute a risk for workers, and particularly to their backs and lumbar regions. In this respect, the Committee notes that the above section 3 remains unchanged. The absolute limit is set at 105 kg and a worker may even be permitted to carry *regularly* loads heavier than 55 kg if he has been found fit by the occupational physicians. While noting the information provided by the above survey, the Committee therefore requests the Government to indicate the measures which have been taken or are envisaged to ensure that workers cannot be required to engage in the manual transport of a load which is heavier than 55 kg. Once again the Committee refers to the recommendations contained in the ILO publication "Maximum weight in lifting and carrying" (Occupational Safety and Health Series, No. 59, Geneva, 1988) in which it is indicated that 55 kg is the limit recommended from the ergonomic point of view for the admissible weight of loads to be transported *occasionally* by a male worker between 19 and 45 years of age. Similarly, it states that 15 kg is the limit recommended from an ergonomic point of view for the load permitted to be lifted and transported *occasionally* by adult women. The Committee has been raising this issue for many years. It therefore hopes that the Government will take the necessary measures to give effect to the provisions of the Convention.

Articles 4 and 6. The Committee notes the technical devices (trolleys, lifts, fixed or travelling cranes) used by workers, depending on the financial means of the enterprise, to limit or facilitate the manual transport of loads. The Committee requests the Government to continue providing information on the effect given to this Article in practice.

Part V of the report form. The Committee notes the information on occupational accidents. The rate of occupational accidents related to the manual handling and transport of loads has remained relatively stable since 1995. In this respect, the Committee notes that 3 per cent of occupational accidents involve absence from work for over 24 hours and that the number of days for which benefits are paid by the CAFAT for this type of occupational accident also remains stable but high, since they account for around 30 per cent of the total number of days for which benefits are paid in respect of occupational accidents. The Committee therefore requests the Government to continue providing information on the effect given in practice to the provisions respecting the maximum weight of loads which may be transported manually and, in particular, on the action taken to prevent this type of occupational accidents.

[The Government is asked to report in detail in 2001.]

* * *

In addition, a request regarding certain points is being addressed directly to *France* (French Polynesia).

Convention No. 129: Labour Inspection (Agriculture), 1969

France

Martinique

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation on the following matters.

> The Committee noted that the Government's reports showed that, in contrast with the situation in metropolitan France, the Directorate of Agriculture and Forests provides no material resources for labour inspection in agriculture. It noted that, despite the requests made in previous comments, no annual report on the activities of the labour and manpower inspection services in the Overseas Departments and in the Territorial Community of St. Pierre and Miquelon had been received by the ILO. Recalling that the declaration of the application of an international labour Convention to a non-metropolitan territory involves the commitment to fulfil the obligations set out in the Convention, the Committee again requests the Government to take all the necessary measures as soon as possible for the application of the provisions of the Convention, not only in law, but also in practice, and to supply detailed information in its next report on this subject. It also expresses again the hope that annual inspection reports will be published in the near future and transmitted to the ILO, in accordance with *Article 26 of the Convention*, and that they will contain the information required on all the subjects enumerated in *Article 27*.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

* * *

In addition, requests regarding certain points are being addressed directly to *France* (French Guiana, Guadeloupe).

Convention No. 131: Minimum Wage Fixing, 1970

Requests regarding certain points are being addressed directly to *France* (Guadeloupe, St. Pierre and Miquelon).

Convention No. 135: Workers' Representatives, 1971

A request regarding certain points is being addressed directly to the *Netherlands* (Aruba).

Convention No. 136: Benzene, 1971

A request regarding certain points is being addressed directly to *France* (Martinique).

Convention No. 137: Dock Work, 1973

Netherlands

Aruba

The Committee notes with regret that the Government's report has not been received. It hopes that a report will be supplied for examination by the Committee at its next session and that it will contain full information on the matters raised in its previous direct request, which read as follows:

> The Committee takes note of the adoption of the revised Stevedoring Ordinance No. 49 of 1991. It would be grateful if the Government would supply, in its next report, additional information on the following points:
>
> *Article 1, paragraph 2, of the Convention.* The Government indicates in its previous report received in 1991 that it usually communicates with employers' and workers' organizations on matters concerning the definitions of "dockworkers" and "dock work". Please describe in more detail the arrangements made for revising these definitions in the light of new methods of cargo handling and their effect on the various dockworker occupations, as required under this Article.
>
> *Articles 3 and 4.* The Government indicated in its previous report that national legislation in force (section 2(j) of the 1946 Act) provided for the registration for all occupational categories of dockworkers. The Committee observes that the new Ordinance No. 49 of 1991 does not contain a provision of that kind. It would be grateful if the Government would clarify whether registers are established and maintained for all occupational categories of dockworkers and, if it is the case, whether arrangements have been made for the periodic review of the strength of such registers. Please also describe, in the latter case, the measures instituted to prevent or minimize detrimental effects on dockworkers when a reduction in the strength of a register becomes necessary.
>
> *Article 6.* The Committee notes the provisions of Ordinance No. 49 relating to safety, health and welfare of dockworkers. It observes, however, that the Ordinance contains no provisions concerning vocational training of dockworkers. The Committee therefore asks the Government to indicate whether any measures have been taken with a view to ensure that appropriate vocational training provisions apply to dockworkers, in accordance with this Article.
>
> *Part V of the report form.* The Committee would be grateful if the Government would continue to supply information concerning the practical application of the Convention, including for instance extracts from reports of the competent authorities and particulars on the number of dockworkers on any registers maintained under Article 3, and of variations in their numbers, if available.

Convention No. 138: Minimum Age, 1973

Netherlands

Aruba

The Committee notes the Government's report and the observations of the Teachers' Union of Aruba (SIMAR) attached to the report. It notes that SIMAR points out that minors are seen in supermarkets during school hours performing labour and that it urges the Government to take necessary measures in order to avoid this undesirable situation. It also indicates the trend of minors in secondary school working after school. In addition, the SIMAR also proposes that the Government introduce an Ordinance on minimum wages for those under the age of 18 in order to avoid abuse of the minors by employers. In the absence of the Government's comments on these observations, the Committee requests the Government to reply to the points raised by the SIMAR.

* * *

In addition, a request regarding certain points is being addressed directly to the *Netherlands* (Aruba).

Convention No. 142: Human Resources Development, 1975

Requests regarding certain points are being addressed directly to the following States: *France* (French Guiana, French Polynesia, Guadeloupe, Martinique, New Caledonia, Réunion, St. Pierre and Miquelon), *Netherlands* (Aruba), *United Kingdom* (Gibraltar, Guernsey).

Convention No. 144: Tripartite Consultation (International Labour Standards), 1976

Netherlands

Aruba

The Committee notes the Government's report and the information supplied in reply to its previous observation. It notes in particular that the reorganization of the Labour Department is not yet complete. The Government also indicates, without giving further details, that the ILO Matters Tripartite Committee in Aruba met again in March 1999, having interrupted its work in 1998. It also states that the 1996 decision of the Netherlands to request denunciation of Conventions Nos. 129 and 141 for Aruba was not taken in consultation with employers' and workers' representative organizations, since the Tripartite Committee mentioned above was not active at that time. The Committee wishes to recall, in this respect, that proposals regarding the denunciation of ratified Conventions must, under *Article 5, paragraph 1(e), of the Convention,* be subject to consultations, and that under *Article 2, paragraph 1,* the procedures must ensure "effective" consultations. In its 1982 General Survey on tripartite consultation, the Committee specified that effective consultations were consultations which enabled employers' and workers' organizations to have a useful say in the questions set out in *Article 5, paragraph 1,* that is, consultations which may influence the decisions taken by the Government (paragraph 44). In its most recent General Survey on tripartite consultation the Committee has again indicated that in order to be effective the consultations must take place prior to the decisions by the Government (paragraph 31). Having noted the Government's report on the application of Convention No. 129, the Committee strongly regrets that the workers' representative organizations were only able to voice their reservations regarding denunciation of the acceptance of the Convention's obligations on behalf of Aruba by submitting observations on the report on the application of the Convention which was transmitted to them by the Government in application of articles 23, paragraph 2, and 35, paragraph 6, of the ILO Constitution.

The Committee trusts that the Government will take due account of its comments, so as to ensure that, in future, the questions regarding ILO activities under *Article 5, paragraph 1,* of the Convention, are subject to effective consultations, in particular within the abovementioned Tripartite Committee, and that it will supply all the information requested in the report form under *Articles 5 and 6* and also *Parts V and VI*.

Convention No. 145: Continuity of Employment (Seafarers), 1976

Netherlands

Aruba

The Committee notes with regret that since 1994 the Government's report has not been received. It hopes that a report will be supplied for examination by the Committee at its next session and that it will contain full information on the matters raised in its comments formulated in December 1995, which read as follows:

> The Committee recalls the Government's statement to the effect that there are no merchant shipping undertakings in Aruba. It hopes that the Government will not fail to supply a detailed report on the application of the Convention in conformity with the report form, which will include, in particular, information on the following points:
>
> *Article 2, paragraphs 1 and 2, of the Convention.* Please describe measures taken to encourage all concerned to provide continuous or regular employment for seafarers. Please indicate the minimum periods of employment or the minimum income or monetary allowance assured to seafarers and describe the manner in which they are assured.
>
> *Part III of the report form.* Please indicate the authority or authorities responsible for the application of the laws and regulations mentioned in the Government's first report received in 1991.
>
> *Part V of the report form.* Please give a general appreciation of the manner in which the Convention is applied in Aruba, including for instance extracts from reports of the authority or authorities referred to under *Part III* above and, if available, particulars of the number of seafarers and of variations in their number during the period covered by the report.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Convention No. 146: Seafarers' Annual Leave with Pay, 1976

A request regarding certain points is being addressed directly to the *Netherlands* (Aruba).

Convention No. 148: Working Environment (Air Pollution, Noise and Vibration), 1977

A request regarding certain points is being addressed directly to the *United Kingdom* (Anguilla).

Information supplied by the *United Kingdom* (Guernsey) in answer to a direct request has been noted by the Committee.

Convention No. 149: Nursing Personnel, 1977

France

Guadeloupe

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> With reference to its previous comments, the Committee notes that for many years the Government has not supplied a report on application of the Convention. In its last communication, it indicated that matters pertaining to nursing personnel did not fall within the competence of the Departmental Directorate of Labour, Employment and Occupational Training of Basse-Terre.
>
> The Committee recalls the obligation devolving on member States, pursuant to article 22 of the ILO Constitution, to present periodically a report on application of ratified Conventions, in accordance with the report form approved by the Governing Body. It hopes that in future the Government will not fail to meet its constitutional obligation to provide the report due on application of this Convention.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

* * *

In addition, requests regarding certain points are being addressed directly to *France* (French Guiana, French Polynesia, Martinique, New Caledonia, Réunion, St. Pierre and Miquelon).

Convention No. 151: Labour Relations (Public Service), 1978

A request regarding certain points is being addressed directly to the *United Kingdom* (Isle of Man).

Convention No. 156: Workers with Family Responsibilities, 1981

A request regarding certain points is being addressed directly to *Australia* (Norfolk Island).

Appendix. Table of reports received on ratified Conventions (non-metropolitan territories) as of 10 December 1999

(articles 22 and 35 of the Constitution)

Article 22 of the Constitution of the International Labour Organization provides that "each of the Members agrees to make an annual report to the International Labour Office on the measures which it has taken to give effect to the provisions of the Conventions to which it is a party. These reports shall be made in such form and shall contain such particulars as the Governing Body may request". Article 23 of the Constitution provides that the Director-General shall lay before the next meeting of the Conference a summary of the reports communicated to him by Members in pursuance of article 22, and that each Member shall communicate copies of these reports to the representative organizations of employers and workers.

At its 204th (November 1977) Session, the Governing Body approved the following arrangements for the presentation by the Director-General to the Conference of summaries of reports submitted by governments under articles 22 and 35 of the Constitution:

(a) the practice of tabular classification of reports, without summary of their contents, which has been followed for several years in respect of reports subsequent to first reports after ratification, should be applied to all reports, including first reports;

(b) the Director-General should make available, for consultation at the Conference, the original texts of all reports received on ratified Conventions; in addition, photocopies of the reports should be supplied on request to members of delegations.

At its 267th (November 1996) Session, the Governing Body approved new measures for rationalization and simplification.

Reports received under articles 22 and 35 of the Constitution appear in simplified form in a table annexed to the report of the Committee of Experts on the Application of Conventions and Recommendations; first reports are indicated in parenthesis.

Requests for consultation or copies of reports may be addressed to the secretariat of the Committee on the Application of Standards.

Australia **All reports received: 17 requested**

Norfolk Island **17 reports requested**
- All reports received: Convention Nos. 3, 11, 12, 17, 27, 29, (42), 47, 87, 98, (100), 105, 122, (131), 142, (156), 160

Denmark **3 reports received: 20 requested**

Faeroe Islands **16 reports requested**
- 1 report received: Convention No. (169)
- 15 reports not received: Conventions Nos. 5, 7, 8, 9, 11, 12, 16, 18, 27, 29, 87, 92, 98, 105, 126

Greenland **4 reports requested**
- 2 reports received: Conventions Nos. 5, (169)
- 2 reports not received: Conventions Nos. 11, 105

France **94 reports received: 197 requested**

French Guiana **26 reports requested**
- 4 reports received: Conventions Nos. 8, 98, 108, 111
- 22 reports not received: Conventions Nos. 5, 12, 17, 27, 29, 35, 36, 37, 38, 42, 45, 81, 87, 89, 100, 105, 129, 136, 142, 144, 147, 149

French Polynesia **31 reports requested**
- 25 reports received: Conventions Nos. 9, 11, 12, 13, 17, 19, 37, 38, 42, 44, 63, 73, 81, 82, 88, 89, 98, 105, 111, 115, 120, 122, 127, 142, 144
- 6 reports not received: Conventions Nos. 16, 53, 69, 125, 126, 149

French Southern and Antarctic Territories **10 reports requested**
- All reports received: Convention Nos. 8, 22, 73, 87, 98, 108, 111, 134, 146, 147

Guadeloupe **38 reports requested**
- 5 reports received: Conventions Nos. 8, 98, 108, 111, 146
- 33 reports not received: Conventions Nos. 3, 5, 11, 12, 17, 27, 29, 35, 36, 37, 38, 42, 45, 58, 81, 87, 89, 92, 100, 105, 112, 120, 126, 129, 131, 133, 135, 136, 141, 142, 144, 147, 149

Martinique **34 reports requested**
- 5 reports received: Conventions Nos. 8, 98, 108, 111, 146
- 29 reports not received: Conventions Nos. 5, 11, 12, 17, 27, 29, 35, 36, 37, 38, 42, 45, 58, 81, 87, 89, 92, 100, 105, 112, 123, 126, 129, 133, 136, 142, 144, 147, 149

New Caledonia **14 reports requested**
- All reports received: Convention Nos. 11, 12, 17, 42, 63, 81, 89, 98, 105, 111, 127, 142, 144, 149

Réunion **16 reports requested**
- 14 reports received: Conventions Nos. 11, 12, 17, 35, 36, 37, 38, 42, 81, 89, 98, 105, 111, 144
- 2 reports not received: Conventions Nos. 147, 149

St. Pierre and Miquelon **28 reports requested**
- 17 reports received: Conventions Nos. 5, 29, 35, 44, 45, 82, 87, 88, 96, 98, 100, 108, 111, 122, 129, 142, 147
- 11 reports not received: Conventions Nos. 11, 12, 17, 42, 63, 81, 89, 105, 131, 144, 149

Netherlands **11 reports received: 36 requested**

Aruba **29 reports requested**
- 11 reports received: Conventions Nos. 8, 12, 17, 29, 45, 81, 89, 105, 129, 138, 144
- 18 reports not received: Conventions Nos. 9, 11, 25, 69, 74, 87, 88, 94, 95, 101, 121, 122, 135, 137, 142, 145, 146, 147

Netherlands Antilles **7 reports requested**
- No reports received: Conventions Nos. 11, 12, 17, 42, 81, 89, 105

New Zealand **All reports received: 2 requested**

Tokelau **2 reports requested**
- All reports received: Convention Nos. 105, 111

United Kingdom **81 reports received: 82 requested**

Anguilla 8 reports requested
- All reports received: Convention Nos. 11, 12, 17, 42, 85, 98, 105, 148

Bermuda 6 reports requested
- All reports received: Convention Nos. 11, 12, 17, 42, 98, 105

British Virgin Islands 6 reports requested
- All reports received: Convention Nos. 11, 12, 17, 85, 98, 105

Falkland Islands (Malvinas) 6 reports requested
- All reports received: Convention Nos. 11, 12, 17, 42, 98, 105

Gibraltar 11 reports requested
- 10 reports received: Conventions Nos. 11, 12, 17, 59, 81, 98, 105, 150, 151, 160
- 1 report not received: Convention No. 42

Guernsey 11 reports requested
- All reports received: Convention Nos. 11, 12, 17, 42, 63, 81, 98, 105, 148, 150, 151

Isle of Man 10 reports requested
- All reports received: Convention Nos. 11, 12, 17, 42, 81, 98, 105, 150, (151), 160

Jersey 8 reports requested
- All reports received: Convention Nos. 11, 12, 17, 42, 81, 98, 105, 160

Montserrat 7 reports requested
- All reports received: Convention Nos. 11, 12, 17, 42, 85, 98, 105

St. Helena 9 reports requested
- All reports received: Convention Nos. 11, 12, 17, 63, 85, 98, 105, 150, 151

United States

All reports received: 10 requested

American Samoa 2 reports requested
- All reports received: Convention Nos. 144, 147

Guam 2 reports requested
- All reports received: Convention Nos. 144, 147

Northern Mariana Islands 2 reports requested
- All reports received: Convention Nos. 144, 147

Puerto Rico 2 reports requested
- All reports received: Convention Nos. 144, 147

United States Virgin Islands 2 reports requested
- All reports received: Convention Nos. 144, 147

Grand Total

A total of 364 reports were requested, of which 218 (59,89 per cent) were received.

III. Observations concerning the submission to the competent authorities of the Conventions and Recommendations adopted by the International Labour Conference

(article 19 of the Constitution)

Afghanistan

The Committee notes with regret that the Government has not provided information with regard to the submission to the competent authorities of the instruments adopted by the Conference since 1985 (71st, 72nd, 74th, 75th, 76th, 77th, 78th, 79th, 80th, 81st, 82nd, 83rd, 84th, 85th and 86th Sessions).

Albania

1. The Committee notes with interest that the ratification of Conventions Nos. 144, 151 and 181 was registered on 30 June 1999.

2. Further to its previous observation, the Committee also notes the Government's communication indicating that the delay in the submission of the instruments adopted at the 79th, 80th, 81st, 82nd, 83rd and 84th Sessions of the Conference was due to the fact that the International Labour Standards Service of the Ministry of Labour and Social Affairs was established only by early 1998. The Government indicates that the appropriate submission procedure will take reasonable time. In these circumstances, the Committee reiterates its hope that the Government will continue its efforts to submit the instruments adopted by the Conference at all outstanding and pending sessions (i.e. 79th, 80th, 81st, 82nd, 83rd, 84th and 86th Sessions) to the People's Assembly of the Republic of Albania.

3. The Government is invited to consider appropriate forms of assistance by the Office in this area.

Angola

The Committee notes with regret that the Government has failed to provide a response to its previous comments regarding the submission to the competent authorities of the instruments adopted by the Conference since 1991 (78th, 79th, 80th, 81st, 82nd, 83rd, 84th, 85th and 86th Sessions).

Armenia

The Committee observes that the Government has not responded to its previous observations. It hopes that the Government will indicate soon that the instruments adopted by the Conference at the 80th, 81st, 82nd, 83rd, 84th, 85th and 86th Sessions have been submitted to the competent authorities.

Bangladesh

The Committee notes that the submission to the Parliamentary Committee of the instruments adopted by the Conference will take place after their examination by the

Tripartite Consultative Council. It must therefore reiterate its hope that the Government will soon be able to indicate that the remaining instruments adopted at the 77th (Convention No. 170 and Recommendation No. 177) and 79th Sessions (Convention No. 173 and Recommendation No. 180), and all the instruments adopted at the 81st, 82nd, 83rd, 84th, 85th and 86th Sessions of the Conference will be submitted to the competent authority.

Belgium

1. The Committee notes the new simplified procedure established by the Government for the submission to Parliament of the instruments adopted by the Conference. The instruments adopted by the Conference at its 82nd, 83rd, 84th and 85th Sessions were forwarded in December 1988 to the President of the Chamber of Representatives and the President of the Senate for their information. The possibility of ratifying the Conventions is still under study by the competent administrations. If ratification is envisaged, the Government will submit the appropriate draft legislation to Parliament. If the Government is unable to ratify the Conventions, Parliament will receive a communication setting out the reasons why. In both cases, the procedure is examined by the social partners at meetings of the National Labour Council.

2. The Committee asks the Government to supply the information on the Government's proposals, the document whereby the instruments were submitted and the decisions taken by Parliament, in respect of the Indigenous and Tribal Peoples Convention, 1989 (No. 169), adopted at the 76th Session, and the instruments adopted at the 78th, 79th, 81st, 82nd, 83rd, 84th, 85th and 86th Sessions of the Conference (see also Parts II(b), (c), and III of the questionnaire at the end of the Memorandum of 1980).

Belize

The Committee notes that the ratification by Belize of Conventions Nos. 14, 100, 111, 135, 140, 141, 151, 154, 155 and 156 was registered on 22 June 1999. It notes that the Government has not supplied new information on the submission to the competent authorities of the instruments adopted by the Conference since 1990 (77th, 78th, 79th, 80th, 81st, 82nd, 83rd, 84th, 85th and 86th Sessions). The Committee urges the Government to make every effort to comply with the constitutional obligation of submission, and recalls, with the Conference Committee, that the Office can provide technical assistance to overcome this serious delay.

Benin

The Committee notes that the Government indicated, in its communication of April 1999, that it had adopted the legislative texts respecting the submission to the National Assembly of the procedures for submitting and ratifying international labour instruments. In response to the request made by the Government, the Office has submitted copies of the instruments adopted by the Conference. The Committee hopes the Government will shortly be in a position to communicate the remaining information and documents requested in the final questionnaire of the 1980 Memorandum on the submission to the National Assembly of the instruments adopted at the 78th, 80th 81st, 82nd, 83rd, 84th, 85th and 86th Sessions of the Conference.

Bolivia

The Committee notes that the Government has not replied to its previous comments. It hopes that the Government will indicate shortly that the instruments adopted at the 80th, 81st, 82nd, 83rd, 84th, 85th and 86th Sessions of the Conference have been submitted to the competent authorities.

Bosnia and Herzegovina

The Committee notes that the Government has not replied to its previous comments. It hopes that the Government will indicate shortly that the instruments adopted at the 80th, 81st, 82nd, 83rd, 84th, 85th and 86th Sessions of the Conference have been submitted to the competent authorities.

Brazil

1. The Committee observes that the President submitted to the National Congress Conventions Nos. 138 and 182 for ratification on 19 October 1999. The Committee notes that the instruments adopted at the 80th Session of the Conference were submitted to Congress on 13 July 1999. The Committee recalls that the tripartite committee which examined the above instruments proposed the ratification of the Prevention of Major Accidents Convention, 1993 (No. 174).

2. In its previous comments, the Committee referred to the tripartite committees which analysed the instruments adopted at the 81st (June 1994) and 83rd (June 1996) Sessions of the Conference. The Committee again expresses the hope that the Government will continue to provide information on the consultations and the progress achieved in submitting to the National Congress the instruments adopted at the Conference (namely, Conventions Nos. 128-130, 149-151, 156 and 157 as well as the instruments adopted at the 52nd, 78th, 79th, 81st, 82nd, 83rd, 84th, 85th and 86th Sessions).

Burkina Faso

The Committee notes that the Government has not replied to its previous comments. It hopes that the Government will indicate shortly that the instruments adopted at the 82nd, 83rd, 84th, 85th and 86th Sessions of the Conference have been submitted to the competent authorities.

Burundi

The Committee notes that the Government has not replied to its previous comments. It hopes that the Government will indicate shortly that the instruments adopted at the 82nd, 83rd, 84th, 85th and 86th Sessions of the Conference have been submitted to the competent authorities.

Cambodia

1. The Committee notes with interest that the ratification by Cambodia of Conventions Nos. 87, 98, 100, 105, 111, 138 and 150 was registered on 23 August 1999. It also notes that the Ministry of Social Affairs has proposed the ratification by the

Council of Ministers of Convention No. 181 and that it has submitted Recommendation No. 189 to the Council of Ministers. It requests the Government to transmit the other information required by the questionnaire at the end of the 1980 Memorandum, regarding submission to the National Assembly of the instruments adopted from the 82nd to the 86th Sessions of the Conference, held from 1995 to 1997.

2. In addition, in view of national circumstances, for many years the submission of the instruments adopted by the Conference was not carried out, in particular in respect of the 55th (Maritime) Session, October 1970, and the sessions held from June 1973 to June 1994 (58th (Convention No. 137 and Recommendation No. 145), 59th to 63rd, 64th (Convention No. 151 and Recommendation No. 159), 65th to 81st Sessions). The Committee recalls, as did the Conference Committee, that the assistance of the Office is available to fulfil this important constitutional obligation.

Cameroon

The Committee notes that it has received no information on the submission to the National Assembly of the instruments adopted by the Conference between 1983 and 1998, namely at the 69th, 70th, 71st, 72nd, 74th, 75th, 76th, 77th, 78th, 79th, 80th, 81st, 82nd, 84th, 85th and 86th Sessions of the Conference. The Committee urges the Government to make every effort to fulfil its constitutional obligation to submit and, with the Committee of the Conference, recalls that the Office may provide technical assistance to overcome these serious delays.

Central African Republic

The Committee notes that the Ministry for Employment, for the Public Service and for Occupational Training, has submitted Convention No. 182 to the Government for examination and submission to the National Assembly with a view to its ratification. It notes that for many years submission to the National Assembly of the instruments adopted by the Conference has not been possible, and in particular since 1988 (75th, 76th, 77th, 78th, 79th, 80th, 81st, 82nd, 83rd, 84th, 85th and 86th Sessions). The Committee hopes that developments in the situation of the country will make it possible to overcome this long delay with respect to the submission of the instruments adopted by the Conference to the National Assembly. It recalls, as did the Conference Committee, the possibility of seeking ILO assistance to fulfil this important constitutional obligation.

Chad

In its previous observation, the Committee had noted that the instruments adopted at the 83rd and 85th Sessions of the Conference would be submitted to the competent authority with the "resubmission" for ratification of the Minimum Age Convention, 1973 (No. 138). The Committee notes that the Government has not submitted further information on the submission to the National Assembly of the instruments adopted at the 80th, 81st, 82nd, 83rd, 84th, 85th and 86th Sessions of the Conference.

Colombia

The Committee notes that the Government has not communicated any new information regarding the procedures to submit to the legislature the instruments adopted at the following sessions of the Conference: 75th (Convention No. 168), 79th (Convention No. 173), 81st (Recommendation No. 182), 82nd, 83rd, 84th, 85th and 86th Sessions. The Committee trusts that the Government will shortly communicate the information requested in the final point of the Memorandum of 1980 concerning the submission to the National Congress of the instruments adopted in the aforementioned sessions of the Conference.

Comoros

1. The Committee notes that the Government has not communicated new information on the measures adopted to submit the instruments adopted at the 79th, 84th and 85th Sessions of the Conference to the National Assembly. The Committee refers to its 1998 observation and hopes that the Government will shortly be in a position to communicate the information required by the 1980 Memorandum on the submission to the National Assembly of all instruments adopted by the Conference since 1992 (at the 79th, 80th, 81st, 82nd, 83rd, 84th, 85th and 86th Sessions of the Conference).

2. The Committee recalls that the 1996 Protocol relative to the Merchant Shipping (Minimum Standards) Convention, 1976, adopted at the 84th Session (Maritime, October 1996) of the Conference, should also be submitted to the National Assembly.

Congo

1. The Committee notes that the Government has provided no new information regarding its obligation of submission. With reference to its 1998 observation, the Committee again hopes that the Government will be able to report on progress achieved at a very early date, and in particular that the instruments adopted at the 54th (Recommendations Nos. 135 and 136), 55th (Recommendations Nos. 137, 138, 139, 140, 141 and 142), 58th (Convention No. 137 and Recommendation No. 145), 60th (Conventions Nos.141 and 143, Recommendations Nos. 149, 150 and 151), 61st (Recommendation No. 152), 62nd, 63rd (Recommendation No. 156), 67th (Recommendations Nos. 163, 164 and 165), 68th (Convention No. 157 and Recommendations Nos. 167 and 168), 69th, 70th, 71st (Recommendations Nos. 170 and 171), 72nd, 74th, 75th (Recommendations Nos. 175 and 176), 77th, 78th, 79th, 80th, 81st, 82nd, 83rd, 84th, 85th and 86th Sessions of the Conference have been submitted to the competent authorities.

2. The Committee recalls, as did the Conference Committee, that ILO assistance is available to carry out this important constitutional obligation.

Costa Rica

1. The Committee notes with interest that the instruments adopted at the 86th and 87th Sessions of the Conference were submitted to the Legislative Assembly on 9 and 27 September 1999, respectively. The Committee also notes that the Government has submitted a Bill to approve Convention No. 182.

2. With regard to its previous comments, the Committee notes that Convention No. 167 was submitted to the Legislative Assembly on 27 March 1996. It also notes the detailed replies provided by the Government concerning the presentation to the Supreme Labour Council of the instruments adopted by the Conference at its Sessions from June

1996 to June 1997 (the 83rd to the 85th Sessions). The Committee trusts that the Government will continue providing information on the consultations held in the Supreme Labour Council and on the submission to the Legislative Assembly of the instruments adopted at the 78th (Recommendation No. 179), 79th (Recommendation No. 180), 80th, 81st (Recommendation No. 182), 82nd (Protocol of 1995 to Convention No. 81 and Recommendation No. 183), 83rd, 84th and 85th Sessions of the Conference.

Djibouti

1. The Committee notes that the Government has not provided information regarding the submission to the competent authorities of the instruments adopted at the 66th, 68th, 69th, 70th, 71st, 72nd, 74th, 75th, 76th, 77th, 78th, 79th, 80th, 81st, 82nd 84th, 85th and 86th Sessions of the Conference.

2. The Committee trusts that the Government will take the necessary measures in the near future to overcome this serious delay in meeting the constitutional obligation of submission and recalls that the technical assistance of the competent services of the ILO is available to the Government.

Dominica

In its previous observation, the Committee noted the information supplied by the Government in which it indicated that the instruments adopted at the 80th, 81st, 82nd and 83rd Sessions were submitted to Cabinet and the Government had decided against ratification. The Committee again reiterates its previous comments and recalls that the competent national authority to which the instruments adopted by the International Labour Conference should normally be submitted is the legislature (Part I of the Memorandum of 1980). It therefore hopes that the Government will announce soon that the instruments adopted at the 80th, 81st, 82nd, 83rd, 84th, 85th and 86th Sessions of the Conference have been submitted to the competent authorities and that it will provide the information and documents requested in this respect in the Memorandum of 1980, in particular with regard to the nature of the proposals or comments by the competent authorities and by the Government on the measures to be taken in relation to the abovementioned instruments (*points I and II of the questionnaire* at the end of the Memorandum).

Ecuador

1. With reference to its previous comments, the Committee notes that the instruments adopted by the Conference at its 75th Session (Conventions Nos. 167 and 168 and Recommendations Nos. 175 and 176) have been submitted to the National Congress. The Committee also notes that Recommendation No. 189 was submitted to the National Congress on 8 September 1999.

2. The Committee also notes the comments made by the Seafarers' Union of Ecuador (UGEME), the General Workers' Union of Ecuador (UGTE) and the Confederation of Free Trade Unions of Ecuador (CEOSL) concerning the submission of the instruments adopted at the 84th and 85th Sessions of the Conference.

3. The Committee further notes the Government's statement to the effect that it is in the process of securing full compliance with outstanding obligations under article 19

of the ILO Constitution. The Committee therefore trusts that the Government will shortly supply the information requested in the Memorandum of 1980 concerning submission to the National Congress of the Conventions and Protocols adopted at the 77th, 78th, 79th, 80th, 81st and 82nd Sessions of the Conference.

El Salvador

1. The Committee notes the communications from the Government to the effect that the instruments adopted at the 85th and 86th Sessions of the Conference have been submitted to the President of the Republic. The Government states that legislative studies have been conducted on the instruments adopted by the Conference in order to assist the authorities in reaching a decision on them. Furthermore, the Ministry of Labour and Social Security has again requested the Office of the President of the Republic to submit the instruments adopted by the Conference at the abovementioned sessions to the legislature. The Committee once again recalls that for the constitutional obligation to submit instruments adopted by the Conference to the competent authorities to be fulfilled, the competent authorities (in this case the Congress of the Republic of El Salvador) must be in a position to take a decision regarding the instruments submitted to it. The Committee therefore trusts that the Government will make all necessary efforts in the near future to ensure that the instruments adopted by the Conference, which are referred to in the next paragraph, are submitted to the Congress of the Republic, and that it will provide the information on them required by the Memorandum of 1980.

2. For many years, the Committee has noted that the instruments adopted at the 62nd, 65th, 66th, 67th, 68th, 70th, 82nd, 83rd, 84th, 85th and 86th Sessions of the Conference, and the remaining instruments of the 63rd (Convention No. 148 and Recommendations Nos. 156 and 157), 64th (Convention No. 151 and Recommendations Nos. 158 and 159) and 69th (Recommendation No. 167) Sessions have not been submitted to the Congress of the Republic. The Committee reminds the Government that it may seek the Office's technical assistance in overcoming this long delay in its submissions.

Equatorial Guinea

The Committee hopes that the Government will shortly provide the information requested in the Memorandum of 1980 in respect of submitting the instruments adopted at the 80th, 81st, 82nd, 83rd, 85th and 86th Sessions of the Conference to the competent authorities.

Eritrea

1. The Committee notes that the Government has not communicated information on the submission to the competent authorities of the instruments adopted by the Conference since 1994 (81st, 82nd, 83rd, 84th, 85th and 86th Sessions).

2. The Committee further notes that Eritrea has been a Member of the Organization since 7 June 1993. It recalls that under article 19 of the Constitution of the International Labour Organization, each of the Members undertakes that it will bring the instruments adopted by the International Labour Conference before the authority or authorities within whose competence the matter lies, for the enactment of legislation or

other action. The Governing Body of the International Labour Office has adopted a Memorandum concerning the obligation to submit Conventions and Recommendations to the competent authorities, asking for particulars on this question. The Committee hopes that the Government will provide all the information requested by the questionnaire at the end of the Memorandum about the competent authority, the date on which the instruments were submitted and the proposals made by the Government on the measures which might be taken with regard to the instruments that have been submitted.

3. The Committee urges the Government to make every effort to comply with the constitutional obligation of submission and recalls that the Office can provide technical assistance to overcome this serious delay.

Gabon

The Committee regrets that the Government has not replied to its previous comments. The Committee hopes that the Government will be in a position in the near future to provide the information requested in the Memorandum of 1980 on submission to the National Assembly of the instruments adopted by the Conference at its 74th, 82nd, 83rd, 84th, 85th and 86th Sessions.

Ghana

1. The Committee notes with interest the information received on 18 November 1999 indicating that the Recommendation adopted at the 86th Session of the Conference, together with other Conventions adopted at the 83rd, 84th and 85th Sessions have been submitted to Parliament on 1 September 1999. It would be grateful if the Government would supply the other indications requested by the 1980 Memorandum with regard to the Recommendations and Protocol adopted at the abovementioned sessions as well as the proposals tabled by the Government, the substance of the document of submission, the decision taken by Parliament and the representative organizations of employers and workers to which the information submitted to the Office has been communicated (*points II(b) and (c), III and V of the questionnaire* at the end of the 1980 Memorandum).

2. Please also indicate if the instruments adopted at the 80th, 81st and 82nd Sessions of the Conference have been submitted to Parliament.

Grenada

The Committee notes that the Government has not replied to its previous comments. It hopes the Government will indicate shortly that the instruments adopted at the 81st, 82nd, 83rd, 84th, 85th and 86th Sessions of the Conference have been submitted to the competent authorities.

Guatemala

The Committee observes that for many years the submission of the following has been pending: the instruments adopted at the 74th (Maritime) Session (October 1987), two of the instruments adopted at the 75th Session (June 1988) (Convention No. 168 and Recommendation No. 176), and all the other instruments adopted at the 77th, 78th, 79th, 80th, 81st, 82nd, 84th, 85th and 86th Sessions of the Conference. The Committee trusts that the Government will do its utmost to forward the relevant information in the near future on the submission of the abovementioned instruments to the Congress of the Republic. Should it so wish, the Government may seek the assistance of the competent departments of the Office in overcoming this long delay in meeting its submission obligations under the ILO Constitution.

Guinea-Bissau

The Committee notes the Government's communication confirming that, before the war, the texts of the instruments adopted at the 79th, 80th, 81st and 82nd Sessions of the Conference (including the 1995 Protocol) had been translated and prepared for submission to the Council of Ministers and subsequently to the National People's Assembly. The Government states that the abovementioned instruments are soon to be submitted. When circumstances permit, the instruments adopted at the 83rd, 84th and 85th Sessions of the Conference will also be submitted. In view of the national circumstances, the Committee would be grateful for further information and trusts that the Government will continue to make efforts to submit the instruments adopted by the Conference to the National People's Assembly. The Committee recalls that the Office may provide technical assistance in achieving this important constitutional obligation.

Haiti

1. The Committee notes the statement made by a Government representative to the Conference Committee in June 1998, that a compendium of reports on submission to the competent authorities had been prepared and transmitted to the employers' and workers' organizations and also to the Committee of Experts. The Committee notes that the document *Texts and reports on Conventions and Recommendations*, September 1996, concerns 13 Conventions and seven Recommendations adopted by the Conference from the 61st to the 75th Sessions (1976-88).

2. The Committee recalls that the Government has not yet provided information concerning submission to the competent authorities on the following instruments:

(a) the instruments remaining from the 67th Session (Conventions Nos. 154 and 155 and Recommendations Nos. 163 and 164);

(b) the instruments adopted at the 68th Session;

(c) the remaining instruments adopted at the 75th Session (Convention No. 168 and Recommendations Nos. 175 and 176); and

(d) all the instruments adopted from 1989 to 1998 (at the 76th, 77th, 78th, 79th, 80th, 81st, 82nd, 83rd, 84th, 85th and 86th Sessions of the Conference).

3. The Committee also recalls, as did the Conference Committee, the possibility of seeking the assistance of the Office in order to fulfil this important constitutional obligation.

Honduras

1. The Committee notes the declaration of a Government representative to the Conference Committee in June 1998 that the Government has initiated submission

procedures to the National Congress. For many years the Committee has been making requests to which it has received no replies on the following points:

(a) with regard to the instruments adopted at the 69th, 71st and 72nd Sessions of the Conference which have already been submitted, the Committee requested the information required under *points II(b) and (c) and III of the questionnaire* at the end of the 1980 Memorandum;

(b) the Government is asked to provide a copy of the letter of submission of the instruments adopted at the 67th, 70th and 75th Sessions; and

(c) the Committee also requests the Government to indicate whether the Seafarers' Welfare Convention, 1987 (No. 163), and the Seafarers' Welfare Recommendation, 1987 (No. 173), adopted at the 74th (Maritime) Session, October 1987, have been submitted.

2. The Committee observes that the Government has also not provided the information requested on the submission of the instruments adopted between 1989 and 1997 at the 76th, 77th, 78th, 79th, 80th, 81st, 82nd, 83rd, 84th, 85th and 86th Sessions of the Conference.

3. The Committee once again urges the Government to make every effort to fulfil the constitutional obligation of submission, and recalls, with the Conference Committee, that the Office can provide technical assistance to overcome this serious delay.

India

The Committee notes that the instruments adopted by the Conference at its 83rd Session (June 1996) were submitted to the Upper House and the Lower House of the Parliament of India on 22 December 1998. The Government has indicated that the remaining instruments adopted by the Conference are at various stages of examination. Some of them are actively being considered for ratification as a part of the process of reporting to the competent authority. The Committee hopes that the Government will indicate soon that the instruments adopted at the 78th, 79th, 80th, 81st, 82nd, 84th, 85th and 86th Sessions of the Conference have also been submitted to the competent authorities.

Israel

The Committee recalls its 1998 observation, and would be grateful if the Government would provide shortly the relevant information required by the Memorandum of 1980 with regard to the submission to the Knesset of the instruments adopted by the Conference at its 81st, 82nd, 83rd, 84th, 85th and 86th Sessions.

Kazakhstan

1. The Committee regrets that the Government has not provided information on the submission to the competent authorities of the instruments adopted since 1993 (the 80th, 82nd, 83rd, 84th, 85th and 86th Sessions) of the Conference.

2. The Committee notes that the Republic of Kazakhstan has been a member State since 1993. It recalls that under article 19 of the Constitution of the International Labour Organization, each of the Members undertakes that it will bring the instruments adopted

by the International Labour Conference before the authority or authorities within whose competence the matter lies, for the enactment of legislation or other action. The Governing Body of the International Labour Office adopted in 1980 a Memorandum concerning the obligation to submit Conventions and Recommendations to the competent authorities, asking for particulars about this question. The Committee hopes that the Government will provide all the information requested by the questionnaire at the end of the Memorandum about the competent authority, the date on which the instruments were submitted and the proposals made by the Government on the measures which might be taken with regard to the instruments that have been submitted. The Committee trusts that the Government will report shortly on the submission to the competent authorities of the instruments adopted at the 80th, 82nd, 83rd, 84th, 85th and 86th Sessions of the Conference.

3. The Government may deem it useful to consider appropriate forms of ILO assistance in this area.

Kenya

The Committee notes the communication forwarded by the Government in January 1999 indicating that arrangements to submit to the competent authorities Conventions and Recommendations adopted at the 81st, 82nd and 83rd Sessions of the Conference are at an advanced stage and that the Government intends to report soon that this has been done. The Committee trusts that the Government will provide the information requested by the questionnaire at the end of the Memorandum of 1980 on the submission to Parliament of the instruments adopted at the Conference from 1994 to 1998 (81st, 82nd, 83rd, 84th, 85th and 86th Sessions).

Kyrgyzstan

1. The Committee notes that the Government has not communicated information on the submission to the competent authorities of the instruments adopted by the Conference since 1992 (79th, 80th, 81st, 82nd, 83rd, 84th, 85th and 86th Sessions).

2. The Committee further notes that Kyrgyzstan has been a Member of the Organization since 31 March 1992. It recalls that under article 19 of the Constitution of the International Labour Organization, each of the Members undertakes that it will bring the instruments adopted by the International Labour Conference before the authority or authorities within whose competence the matter lies, for the enactment of legislation or other action. The Governing Body of the International Labour Office has adopted a Memorandum concerning the obligation to submit Conventions and Recommendations to the competent authorities, asking for particulars about this question. The Committee hopes that the Government will provide all the information requested by the questionnaire at the end of the Memorandum about the competent authority, the date on which the instruments were submitted and the proposals made by the Government on the measures which might be taken with regard to the instruments that have been submitted.

3. The Committee urges the Government to make every effort to comply with the constitutional obligation of submission and recalls that the Office can provide technical assistance to overcome this serious delay.

Lao People's Democratic Republic

The Committee notes that the Government has not replied to its previous comments. It hopes that the Government will indicate shortly that the instruments adopted at the 82nd, 83rd, 84th, 85th and 86th Sessions of the Conference have been submitted to the competent authorities.

Latvia

1. The Committee regrets to note that the Government has not communicated information regarding the submission to the competent authorities of the instruments adopted by the Conference since 1992 (79th, 80th, 81st, 82nd, 83rd, 84th, 85th and 86th Sessions).

2. The Committee recalls that under article 19 of the Constitution of the International Labour Organization, each of the Members undertakes that it will bring the instruments adopted by the International Labour Conference before the authority or authorities within whose competence the matter lies, for the enactment of legislation or other action. The Governing Body of the International Labour Office has adopted in 1980 a Memorandum concerning the obligation to submit Conventions and Recommendations to the competent authorities, asking for particulars about this question. The Committee hopes that the Government will provide all the information requested by the questionnaire at the end of the Memorandum about the competent authority, the date on which the instruments were submitted and the proposals made by the Government on the measures which might be taken with regard to the instruments that have been submitted.

3. The Government may deem it useful to consider appropriate forms of ILO assistance in this area.

Lesotho

The Committee notes that the Government has not replied to its previous comments. It hopes that the Government will indicate shortly that the instruments adopted at the 82nd, 83rd, 84th, 85th and 86th Sessions of the Conference have been submitted to the competent authorities.

Liberia

1. Following its previous observations, the Committee notes with interest that the Conventions and Recommendations adopted by the Conference from its 76th to 86th Sessions were submitted to the House of Representatives on 4 December 1998. It trusts that the Government will indicate in due course if the National Legislature had an opportunity to take a decision on the Conventions and Recommendations which were submitted to it (see *point III of the questionnaire* at the end of the 1980 Memorandum).

2. The Committee notes that the Protocol of 1990 to the Night Work (Women) Convention (Revised), 1948, the Protocol of 1995 to the Labour Inspection Convention, 1947, and the Protocol of 1996 to the Merchant Shipping (Minimum Standards) Convention, 1976, have not been mentioned by the Government in its communication. It would be grateful if the Government would provide the corresponding information

regarding the submission to the House of Representatives of the abovementioned Protocols.

3. The Committee also recalls that, in conformity with article 23, paragraph 2, of the Constitution of the Organization, copies of the information communicated to the Director-General in pursuance of article 19 shall be communicated to the representative organizations of employers and workers. It would be grateful if the Government would indicate the representative organizations of employers and workers to which the information submitted to the Director-General has been communicated, as requested by *point V of the questionnaire* at the end of the 1980 Memorandum.

Madagascar

The Committee notes the information supplied by the Government indicating that the Government plans to do its utmost to fulfil its obligation in respect of the instruments which have not yet been submitted to the National Assembly, beginning with the recently adopted Conventions. The Committee recalls its previous comments and asks the Government to indicate in the near future that the instruments adopted at the 55th, 69th (Recommendation No. 167), 71st, 72nd, 74th, 75th, 76th, 77th, 78th, 80th, 82nd, 83rd, 84th, 85th, and 86th Sessions of the Conference have been submitted to the National Assembly.

Mali

The Committee regrets that the Government has not provided information regarding the submission to the competent authorities of the instruments adopted by the Conference since 1992 (79th, 80th, 81st, 82nd, 83rd, 84th, 85th and 86th Sessions).

Mauritania

In its observation of 1998, the Committee took note of the information concerning the steps taken by the Government in order to submit to the National Assembly the instruments adopted by the Conference at its 78th, 79th and 81st Sessions. The Committee again hopes that the Government will take the necessary measures to enable it in the very near future to indicate that the instruments adopted by the Conference at its 81st, 82nd, 83rd, 84th, 85th and 86th Sessions have been submitted to the National Assembly.

Republic of Moldova

The Committee notes the Government's communication of August 1999 indicating that the Conventions and Recommendations adopted at the 79th, 80th, 81st, 82nd, 83rd, 85th and 86th Sessions of the Conference have been submitted to the Parliament of the Republic of Moldova. The Committee notes that the 1995 Protocol to the Labour Inspection Convention, 1947, adopted at the 82nd Session (June 1995) was not mentioned among the instruments submitted to Parliament. It asks the Government to send the documentation and other information requested under *points II(b) and (c), III and V of the questionnaire* at the end of the Memorandum of 1980 in respect of the submission of all the instruments adopted at the 81st, 82nd, 83rd, 84th, 85th and 86th Sessions of the Conference.

Mongolia

The Committee recalls that under article 19 of the Constitution of the International Labour Organization, each of the Members undertakes that it will bring the instruments adopted by the International Labour Conference before the authority or authorities within whose competence the matter lies, for the enactment of legislation or other action. The Governing Body of the International Labour Office has adopted a Memorandum concerning the obligation to submit Conventions and Recommendations to the competent authorities, asking for particulars about this question. The Committee hopes that the Government will provide all the information requested by the questionnaire at the end of the Memorandum about the competent authority, the date on which the instruments were submitted and the proposals made by the Government on the measures which might be taken with regard to the instruments that have been submitted. The Committee notes that the Government has not provided information regarding the submission to the competent authorities of the instruments adopted at the 82nd, 83rd, 84th, 85th and 86th Sessions of the Conference.

Pakistan

1. In relation with its previous comments, the Committee notes the Government's statement indicating that the instruments adopted by the Conference at its 83rd Session have been submitted to the competent authority, i.e. the Cabinet. The Committee recalls that the expression *competent authorities* used in article 19 of the Constitution of the Organization is intended to refer to a legislative and not to a ratifying authority. In the Memorandum concerning the obligation to submit Conventions and Recommendations to the competent authorities, adopted in 1980, the ILO Governing Body has indicated that the competent national authority should normally be the legislature (see Part I of the 1980 Memorandum).

2. The Committee also recalls that the obligation of governments to submit the instruments to the competent authorities does not imply any obligation to propose the ratification or acceptation of the instruments in question. Governments have complete freedom as to the nature of the proposals to be made when submitting Conventions and Recommendations to the competent authorities.

3. The Committee trusts that the Government will take measures to ensure full compliance with the obligation to submit established in article 19 of the Constitution of the Organization and will be able to indicate in the near future that the instruments adopted at the 81st, 82nd, 83rd, 84th, 85th and 86th Sessions of the Conference have been submitted to Parliament.

Papua New Guinea

The Committee notes the explanation provided by a Government representative to the 1999 Conference Committee. It also notes the request for assistance made by the Government to the Office in order to submit to the National Parliament all the instruments adopted since the 66th Session of the Conference (June 1980). The Committee hopes that, with the assistance from the Office, the Government will shortly be able to indicate that the instruments adopted from the 66th to the 86th Sessions of the Conference have been submitted to the National Parliament.

Saint Lucia

1. The Committee recalls the indications provided by the Government in December 1998 that the Conventions and Recommendations which are expected to be submitted early in 1999 are Conventions Nos. 154 to 177 and Recommendations Nos. 162 to 184. The other instruments were expected to be submitted before the middle of 1999. The Committee notes that the 1999 Conference Committee has expressed its hope that Saint Lucia would, in the near future, send in reports containing information relating to the submission of the instruments adopted by the Conference to the competent authorities.

2. The Committee trusts that the Government will shortly indicate that all the instruments adopted by the International Labour Conference from 1980 to 1998 (that is, at the 66th, 67th, 68th, 69th, 70th, 71st, 72nd, 74th, 75th, 76th, 77th, 78th, 79th, 80th, 81st, 82nd, 83rd, 84th, 85th and 86th Sessions) have been submitted to the competent authorities. It would be grateful if the Government would supply all the information and documents requested in this connection in the Memorandum adopted in 1980 by the Governing Body, particularly with regard to the nature of the competent authorities and the Government's proposals regarding the instruments in question *(points I(a) and II(b) of the questionnaire).*

3. The Committee recalls in this connection that the authorities to which these instruments must be submitted are those empowered to legislate and that governments have full freedom as to the content of the proposals they make concerning the instruments which are submitted to the competent authorities.

4. The Government may deem it useful to consider appropriate forms of Office assistance in this area.

Sao Tome and Principe

The Committee and the Conference Committee note with regret that the Government has not replied to the comments which they have been making since 1992 and that the Government has not provided the information requested in the final section of the 1980 Memorandum on the submission to the competent authorities of all instruments adopted since 1990 by the Conference (namely, at the 77th, 78th, 79th, 80th 81st, 82nd, 83rd, 84th, 85th and 86th Sessions).

Senegal

The Committee regrets that the Government has not communicated information regarding the submission to the competent authorities of the instruments adopted by the Conference since 1992 (the 79th, 80th, 81st, 82nd, 83rd, 84th, 85th and 86th Sessions).

Seychelles

1. The Committee notes with interest that the instrument of ratification of Convention No. 182 was registered on 28 September 1999 and that this ratification was the first to be received in respect of Convention No. 182. The ratification of Conventions Nos. 98, 100, 111, 148, 150 and 151 were registered on 4 October and 23 November 1999.

2. The Committee also notes the statement by a Government representative to the Conference Committee in June 1999 indicating that the Cabinet had approved the submission of the instruments adopted at the 63rd and 64th Sessions to the National Assembly and expressing his conviction that Seychelles would do its utmost to honour its obligation under the Constitution of the Organization.

3. The Committee recalls its previous observations, and urges the Government to continue to act in order to be in a position to indicate very soon that the instruments adopted from 1977 to 1998 (at the 63rd (Convention No. 149 and Recommendation No. 157), 65th, 66th, 67th, 68th, 69th, 70th, 71st, 72nd, 74th, 75th, 76th, 77th, 78th, 79th, 80th, 81st, 82nd, 83rd, 84th, 85th and 86th Sessions of the Conference) have been submitted to the National Assembly in accordance with article 19 of the Constitution of the Organization.

4. The Committee recalls, as did the Conference Committee, that the Office is able to provide technical assistance to help comply with the obligation to submit.

Sierra Leone

The Committee trusts that, when the national circumstances permit, the Government will provide information on the submission to the competent authorities with regard to the instruments adopted by the Conference since October 1976 (Convention No. 146 and Recommendation No. 154 adopted at the 62nd Session and the 63rd, 64th, 65th, 66th, 67th, 68th, 69th, 70th, 71st, 72nd, 74th, 75th, 76th, 77th, 78th, 79th, 80th, 81st, 82nd, 83rd, 84th, 85th and 86th Sessions).

Solomon Islands

The Committee notes that the Government has not supplied new information on the submission to the competent authorities of the instruments adopted by the Conference since 1984 (70th, 71st, 72nd, 75th, 76th, 77th, 78th, 79th, 80th, 81st, 82nd, 83rd, 84th, 85th and 86th Sessions). The Committee urges the Government to make every effort to comply with the constitutional obligation of submission, and recalls, with the Conference Committee, that the Office can provide technical assistance to overcome this serious delay.

Somalia

The Committee trusts that, when the national circumstances permit, the Government will provide information on the submission to the competent authorities with regard to the instruments adopted by the Conference since October 1976 (63rd, 64th, 65th, 66th, 67th, 68th, 69th, 70th, 71st, 72nd, 74th, 75th, 76th, 77th, 78th, 79th, 80th, 81st, 82nd, 83rd, 84th, 85th and 86th Sessions).

Spain

The Committee notes with interest that the ratification of the Private Employment Agencies Convention, 1997 (No. 181) was registered on 15 June 1999. It further notes that the Council of Ministers, at its meeting on 23 April 1999, agreed to take note of Recommendation No. 189, adopted at the 86th Session of the Conference, although it has not reported its subsequent submission to the legislative body. The Committee again expresses the hope that the Government will shortly be able to indicate that certain instruments adopted at the 63rd (Convention No. 149 and Recommendation No. 157) and 75th (Convention No. 168 and Recommendation No. 176) Sessions and all the instruments adopted at the 80th, 81st, 83rd, 84th and 86th Sessions of the Conference have now been submitted to the legislative body.

Sudan

The Committee notes that the Government has not replied to its previous comments. It hopes that the Government will indicate shortly that the instruments adopted at the 81st, 82nd, 83rd, 84th, 85th and 86th Sessions of the Conference have been submitted to the competent authorities.

Suriname

The Committee notes that the Government has not replied to its previous comments. It hopes that the Government will indicate shortly that the instruments adopted at the 67th (Convention No. 154), 81st, 82nd, 83rd, 84th, 85th and 86th Sessions of the Conference have been submitted to the competent authorities.

Swaziland

The Committee notes the information provided by the Government in January 1999 indicating that a new Parliament was in place since November 1998 and that the Government intends to submit the instruments adopted by the Conference when the Parliament convenes. The Committee further notes that a Government representative has assured the 1999 Conference Committee that all the instruments would be submitted to Parliament. It would be grateful if the Government would provide all the indications requested by the 1980 Memorandum on the submission to Parliament of the instruments adopted by the Conference from 1991 to 1998 (78th, 79th, 80th, 81st, 82nd, 83rd, 84th, 85th and 86th Sessions).

Syrian Arab Republic

1. The Committee notes the exchange of correspondence between the Ministry of Social Affairs and of Labour and the Office of the Vice-Prime Minister for Administrative Affairs, sent by the Government in November 1998. This indicates that the instruments adopted by the Conference have been placed before a tripartite consultative commission. In another communication, dated 6 April 1999, the Government refers to the National Tripartite Seminar on the Application of Conventions and Recommendations which was held at Damascus in January 1999, in cooperation with the Office, with the participation of representatives of the People's Assembly, of the Council of Ministers, of the Ministries of Foreign Affairs and Social Affairs and of Labour. The participants of the seminar drafted a recommendation regarding submission, stating that, by virtue of the provisions of section 71 of the Constitution of the Syrian Arab Republic and those of section 70 of the Statute of the People's Assembly, which established the authority competent in respect of ratification or non-ratification (the People's Assembly), and in view of the fact that the Executive has the right to propose ratification or non-ratification, all measures necessary should be taken to submit the

Conventions and Recommendations adopted by the International Labour Conference and the Arab Labour Conference to the competent authority (the People's Assembly) for possible ratification.

2. In another communication of May 1999, the Minister for Social Affairs and for Labour stated that he had stressed the need to submit all the Conventions and Recommendations adopted by the Conference to the competent authority and had transmitted the report of the seminar mentioned above to all the participants as well as to the Assembly and the Council of Ministers. At the June 1999 Conference Committee, a Government representative also recalled the communications sent by his Government to the Office and the measures initiated to examine the instruments adopted by the Conference. He also mentioned the National Seminar's recommendation: that all the instruments adopted by the Conference should be submitted to the competent authority, that is, Parliament, through the offices of the Council of Ministers.

3. The Committee welcomes the recommendation drawn up by the National Tripartite Seminar that the Government should take all necessary steps to submit the instruments adopted by the Conference to the Assembly for their possible ratification. Article 19 of the Constitution of the ILO sets forth the obligation for Members to submit the instruments adopted by the Conference to the competent authorities, in this case, the People's Assembly (Majlis al-Chaab). The Governing Body of the ILO stated in its Memorandum of 1980 that the "discussion in a deliberative assembly – or at least information of the assembly – can constitute an important factor in the complete examination of a question and in a possible improvement of measures taken at the national level; in the case of Conventions it might result in a decision to ratify". In addition, "the obligation of governments to submit the instruments to the competent authorities does not imply an obligation to propose the ratification or application of the instrument in question". The Committee notes that for several years, the instruments adopted by the Conference have only been submitted to the Council of Ministers; they have thus in fact not been submitted to the competent authorities.

4. In view of the facts given above, the Committee trusts that the Government will be able to indicate in the near future that the instruments adopted by the Conference at its 66th and 69th Sessions (Recommendations Nos. 167 and 168), and from 1984 to 1998 (70th, 77th, 78th, 79th, 80th, 81st, 82nd, 83rd, 84th, 85th and 86th Sessions) have been submitted to the People's Assembly and that it will supply, in this connection, the information requested in the questionnaire to be found at the end of the 1980 Memorandum.

United Republic of Tanzania

1. The Committee notes with interest that the ratification of the Chemicals Convention, 1990 (No. 170) (adopted at the 77th Session of the Conference), and of the Protocol of 1995 to the Labour Inspection Convention, 1947 (adopted at the 82nd Session), were registered on 15 March 1999.

2. The Committee observes that the Government has not provided new information on the submission to the competent authorities of the remaining instruments adopted by the Conference from 1980 to 1998 (66th, 67th, 68th, 72nd, 74th, 75th, 76th, 77th, 78th, 79th, 80th, 81st, 82nd, 83rd, 84th, 85th and 86th Sessions).

3. The Committee also recalls that in previous observations it had asked the Government to indicate the date on which the instruments adopted from the 54th to the 65th Sessions were submitted to Parliament.

4. The Committee urges the Government to make every effort to comply with the constitutional obligation of submission, and recalls that the Office can provide technical assistance to overcome this serious delay.

Turkmenistan

1. The Committee notes that the Government has not communicated information on the submission to the competent authorities of the instruments adopted by the Conference since 1994 (81st, 82nd, 83rd, 84th, 85th and 86th Sessions).

2. The Committee further notes that Turkmenistan has been a Member of the Organization since 24 September 1993. It recalls that under article 19 of the Constitution of the International Labour Organization, each of the Members undertakes that it will bring the instruments adopted by the International Labour Conference before the authority or authorities within whose competence the matter lies, for the enactment of legislation or other action. The Governing Body of the International Labour Office has adopted a Memorandum concerning the obligation to submit Conventions and Recommendations to the competent authorities, asking for particulars about this question. The Committee hopes that the Government will provide all the information requested by the questionnaire at the end of the Memorandum about the competent authority, the date on which the instruments were submitted and the proposals made by the Government on the measures which might be taken with regard to the instruments that have been submitted.

3. The Committee urges the Government to make every effort to comply with the constitutional obligation of submission and recalls that the Office can provide technical assistance to overcome this serious delay.

Uganda

The Committee notes that the Government has not replied to its previous comments. It hopes that the Government will indicate shortly that the instruments adopted at the 81st, 82nd, 83rd, 84th, 85th and 86th Sessions of the Conference have been submitted to the competent authorities.

Uruguay

The Committee notes that the instruments adopted at the 84th (Maritime) Session (October 1996) of the Conference were submitted to the General Assembly on 10 March 1998 and that the Protocol of 1995 to the Labour Inspection Convention, 1947, was submitted on 4 March 1998. The Committee would be grateful if the Government would provide additional information on the submission of Convention No. 176 and Recommendation No. 183, adopted at the 82nd Session of the Conference (June 1995), and the submission to the General Assembly of the instruments adopted at the 80th, 83rd, 85th and 86th Sessions of the Conference.

Uzbekistan

1. The Committee notes that the Government has not communicated information on the submission to the competent authorities of the instruments adopted by the Conference since 1993 (80th, 81st, 82nd, 83rd, 84th, 85th and 86th Sessions).

2. The Committee further notes that Uzbekistan has been a Member of the Organization since 31 July 1992. It recalls that under article 19 of the Constitution of the International Labour Organization, each of the Members undertakes that it will bring the instruments adopted by the International Labour Conference before the authority or authorities within whose competence the matter lies, for the enactment of legislation or other action. The Governing Body of the International Labour Office has adopted a Memorandum concerning the obligation to submit Conventions and Recommendations to the competent authorities, asking for particulars about this question. The Committee hopes that the Government will provide all the information requested by the questionnaire at the end of the Memorandum about the competent authority, the date on which the instruments were submitted and the proposals made by the Government on the measures which might be taken with regard to the instruments that have been submitted.

3. The Committee urges the Government to make every effort to comply with the constitutional obligation of submission and recalls that the Office can provide technical assistance to overcome this serious delay.

Venezuela

1. The Committee notes that the Government has not transmitted information on the various issues pending and the points which the Committee has been raising for a number of years in respect of the Government's constitutional obligation to submit, and in particular:

(a) the decision of the National Congress with regard to the Indigenous and Tribal Peoples Convention, 1989 (No. 169) (*Part III of the report form* in the final section of the 1980 Memorandum);

(b) the submission to the National Congress of the remaining instruments adopted at the 75th Session (Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168), and its Recommendation (No. 176); the 77th Session (Night Work Convention, 1990 (No. 171), and its Recommendation (No. 178), and the 1990 Protocol to the Night Work (Women) Convention (Revised), 1948 (No. 89); and 82nd Session (the 1995 Protocol to the Labour Inspection Convention, 1947 (No. 81)) of the Conference.

2. Moreover, the Committee reiterates its hope that the instruments adopted at the 71st (Convention No. 161), 74th (Conventions Nos. 163, 164, 165 and 166 and Recommendation No. 174), 75th, 76th, 77th, 78th (Convention No. 172), 79th, 80th, 81st, 82nd (Convention No. 176), 83rd, 84th, 85th and 86th Sessions of the Conference shall shortly be submitted to the National Congress.

Yemen

The Committee notes that the Government has provided no new information regarding the submission to the competent authority of the instruments adopted at the

74th, 76th, 77th, 78th, 79th, 80th, 81st, 82nd, 83rd, 84th, 85th and 86th Sessions of the Conference. The Committee urges the Government to make every effort to fulfil its constitutional obligation to submit and, with the Conference Committee, recalls that the Office may provide technical assistance to overcome these serious delays.

Zimbabwe

1. The Committee notes with satisfaction the information forwarded by the Government on the submission to Parliament of the instruments adopted by the Conference from 1993 to 1998 in January and February 1999. It also notes with interest that the ratification of Conventions Nos. 29, 98, 105, 135, 140, 150, 159 and 170 were registered on 27 August 1998.

2. The Committee would be grateful if the Government would provide information on the submission to Parliament of Convention No. 180 and Recommendation No. 187 concerning Seafarers' Hours of Work and the Manning of Ships, 1996, adopted by the Conference at its 86th Session (Maritime, October 1996).

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Algeria, Antigua and Barbuda, Argentina, Australia, Austria, Azerbaijan, Bahamas, Bahrain, Barbados, Belarus, Canada, Cape Verde, Chile, Côte d'Ivoire, Croatia, Cuba, Cyprus, Democratic Republic of the Congo, Denmark, Dominican Republic, Estonia, Fiji, Finland, France, Gambia, Georgia, Germany, Greece, Guinea, Guyana, Hungary, Iceland, Indonesia, Islamic Republic of Iran, Iraq, Italy, Jordan, Kuwait, Lebanon, Libyan Arab Jamahiriya, Lithuania, Malawi, Malaysia, Malta, Mauritius, Mexico, Mozambique, Myanmar, Namibia, Nepal, Netherlands, Niger, Nigeria, Oman, Panama, Paraguay, Peru, Philippines, Qatar, Russian Federation, Rwanda, Saint Kitts and Nevis, Saint Vincent and the Grenadines, San Marino, Saudi Arabia, Singapore, Slovakia, Slovenia, South Africa, Sri Lanka, Sweden, Tajikistan, Thailand, The former Yugoslav Republic of Macedonia, Togo, Trinidad and Tobago, Tunisia, Ukraine, United Arab Emirates, United Kingdom, Zambia.*

Appendix I. Information supplied by governments with regard to the obligation to submit the instruments adopted by the International Labour Conference to the competent authorities

(31st to 87th Sessions of the Conference, 1948-99)[1]

Note. When only some of the instruments adopted at any one session have been submitted, the number of the Convention or Recommendation is given in parentheses, preceded by the letter C or R. Protocols are indicated by the letter P followed by the number of the corresponding Convention. When the ratification of a Convention was registered, that Convention and the corresponding Recommendation are considered as submitted.

Account has been taken of the date of admission and readmission of States Members to the Organization for determining the sessions of the Conference whose texts are taken into consideration.

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Afghanistan	31-70	71, 72, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86
Albania	31-49, 85	78, 79, 80, 81, 82, 83, 84, 86
Algeria	47-82	83, 84, 85, 86
Angola	61-79	80, 81, 82, 83, 84, 85, 86
Antigua and Barbuda	68-82	83, 84, 85, 86
Argentina	31-83	84, 85, 86
Armenia	–	80, 81, 82, 83, 84, 85, 86
Australia	31-84	85, 86
Austria	31-82, 84-85	83, 86
Azerbaijan	79 (C173), 80-82, 85-87	79 (R180), 83, 84
Bahamas	61-84, 86	85
Bahrain	63-86	
Bangladesh	58-76, 77 (C171; R178), 78, 80	77 (C170; P089; R177), 79, 81, 82, 83, 84, 85, 86

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[1] The Conference did not adopt any Convention or Recommendation at its 57th and 73rd Sessions (June 1972 and June 1987).

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Barbados	51-85	86
Belarus	37-83, 86	84, 85
Belgium	31-75, 77, 80, 82-85	76, 78, 79, 81, 86
Belize	68-76	77, 78, 79, 80, 81, 82, 83, 84, 85, 86
Benin	45-78	79, 80, 81, 82, 83, 84, 85, 86
Bolivia	31-79	80, 81, 82, 83, 84, 85, 86
Bosnia and Herzegovina	–	80, 81, 82, 83, 84, 85, 86
Botswana	64-86	
Brazil	31-50, 51 (C127; R128; R129; R130; R131), 53 (R133; R134), 54-62, 63 (C148; R156; R157), 64 (R158; R159), 65-66, 67 (C154; C155; R163; R164; R165), 68 (C158; P110; R166), 69-77, 80, 87	51 (C128), 52, 53 (C129; C130), 63 (C149), 64 (C150; C151), 67 (C156), 68 (C157), 78, 79, 81, 82, 83, 84, 85, 86
Bulgaria	31-86	
Burkina Faso	45-81	82, 83, 84, 85, 86
Burundi	47-81	82, 83, 84, 85, 86
Cambodia	53-54, 56, 58 (C138; R146), 64 (C150; R158)	55, 58 (C137; R145), 59, 60, 61, 62, 63, 64 (C151; R159), 65, 66, 67, 68, 69, 70, 71, 72, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86
Cameroon	44-68, 72, 74	69, 70, 71, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86
Canada	31-84	85, 86
Cape Verde	65-81	82, 83, 84, 85, 86
Central African Republic	45-74	75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86
Chad	45-79	80, 81, 82, 83, 84, 85, 86
Chile	31-81, 82 (C176; R183), 83	82 (P081), 84, 85, 86
China	31-86	

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Colombia	31-74, 75 (C167; R175; R176), 76-78, 79 (R180), 80, 81 (C175)	75 (C168), 79 (C173), 81 (R182), 82, 83, 84, 85, 86
Comoros	65-78	79, 80, 81, 82, 83, 84, 85, 86
Congo	45-53, 54 (C131; C132), 55 (C133; C134), 56, 58 (C138; R146), 59, 60 (C142), 61, 63 (C148; C149; R157), 64-66, 67 (C154; C155; C156), 68 (C158), 71 (C160; C161), 75 (C167; C168), 76	54 (R135; R136), 55 (R137; R138; R139; R140; R141; R142), 58 (C137; R145), 60 (C141; C143; R149; R150; R151), 62, 63 (R156), 67 (R163; R164; R165), 68 (C157; P110; R166), 69, 70, 71 (R170; R171), 72, 74, 75 (R175; R176), 77, 78, 79, 80, 81, 82, 83, 84, 85, 86
Costa Rica	31-77, 78 (C172), 79 (C173), 81 (C175), 82 (C176), 86-87	78 (R179), 79 (R180), 80, 81 (R182), 82 (P081; R183), 83, 84, 85
Côte d'Ivoire	45-82	83, 84, 85, 86
Croatia	80-85	86
Cuba	31-83, 84 (C178; C179; C180; R185; R186; R187), 85-86	84 (P147)
Cyprus	45-81	82, 83, 84, 85, 86
Czech Republic	80-86	
Democratic Republic of the Congo	45-82	83, 84, 85, 86
Denmark	31-85	86
Djibouti	64-65, 67, 71-72, 83	66, 68, 69, 70, 74, 75, 76, 77, 78, 79, 80, 81, 82, 84, 85, 86
Dominica	68-79	80, 81, 82, 83, 84, 85, 86
Dominican Republic	31-83, 84 (C178; C179; C180; R185; R186; R187), 85, 86	84 (P147)
Ecuador	31-76, 77 (R177; R178), 78 (R179), 79 (R180), 80 (R181), 82 (R183), 83-86	77 (C170; C171; P089), 78 (C172), 79 (C173), 80 (C174), 81, 82 (C176; P081)
Egypt	31-87	

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
El Salvador	31-61, 63 (C149), 64 (C150), 69 (C159; R168), 71-81	62, 63 (C148; R156; R157), 64 (C151; R158; R159), 65, 66, 67, 68, 69 (R167), 70, 82, 83, 84, 85, 86
Equatorial Guinea	67-79, 84	80, 81, 82, 83, 85, 86
Eritrea	80	81, 82, 83, 84, 85, 86
Estonia	79-83, 84 (C178; C179; C180; R185; R186; R187), 85	84 (P147), 86
Ethiopia	31-86	
Fiji	59-82	83, 84, 85, 86
Finland	31-85	86
France	31-83	84, 85, 86
Gabon	45-72, 75-81	74, 82, 83, 84, 85, 86
Gambia		82, 83, 84, 85, 86
Georgia	86	80, 81, 82, 83, 84, 85
Germany	34-74, 75 (C167; R175), 76, 80-85	75 (C168; R176), 77, 78, 79, 86
Ghana	40-79, 83 (C177), 84 (C178; C179; C180), 85 (C181), 86	80, 81, 82, 83 (R184), 84 (P147; R185; R186; R187), 85 (R188)
Greece	31-86	
Grenada	66-80	81, 82, 83, 84, 85, 86
Guatemala	31-70, 71 (C160; C161; R171), 72, 75 (C167; R175), 76, 83	71 (R170), 74, 75 (C168; R176), 77, 78, 79, 80, 81, 82, 84, 85, 86
Guinea	43-83	84, 85, 86
Guinea-Bissau	63-78	79, 80, 81, 82, 83, 84, 85, 86
Guyana	50-84	85, 86
Haiti	31-66, 67 (C156; R165), 69-74, 75 (C167)	67 (C154; C155; R163; R164), 68, 75 (C168; R175; R176), 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86
Honduras	39-66, 68-69, 71-72, 74 (C164; C165; C166; R174), 75 (C167), 76	67, 70, 74 (C163; R173), 75 (C168; R175; R176), 77, 78, 79, 80, 81, 82, 83, 84, 85, 86
Hungary	31-83	84, 85, 86
Iceland	31-85	86

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
India	31-77, 83	78, 79, 80, 81, 82, 84, 85, 86
Indonesia	33-85	86
Islamic Republic of Iran	31-83, 85	84, 86
Iraq	31-84, 85 (C181), 86-87	85 (R188)
Ireland	31-87	
Israel	32-80	81, 82, 83, 84, 85, 86
Italy	31-83	84, 85, 86
Jamaica	47-86	
Japan	35-86	
Jordan	39-86	
Kazakhstan	–	80, 81, 82, 83, 84, 85, 86
Kenya	48-80	81, 82, 83, 84, 85, 86
Republic of Korea	79-86	
Kuwait	45-76, 78-79, 80 (C174), 81-84	77, 80 (R181), 85, 86
Kyrgyzstan	–	79, 80, 81, 82, 83, 84, 85, 86
Lao People's Democratic Republic	48-81	82, 83, 84, 85, 86
Latvia	80	79, 81, 82, 83, 84, 85, 86
Lebanon	31 (C088; C089; C090; R083), 32 (C091; C093; C094; C095; C096; C097; C098; R084; R085; R086; R087), 33-37, 38 (C104), 39 (R101), 40-86	31 (C087), 32 (C092), 38 (R099; R100), 39 (R102)
Lesotho	66-81	82, 83, 84, 85, 86
Liberia	31-76, 77 (C170; C171; R177; R178), 78-81, 82 (C176; R183), 83, 84 (C178; C179; C180; R185; R186; R187), 85-86	77 (P089), 82 (P081), 84 (P147)
Libyan Arab Jamahiriya	35-82	83, 84, 85, 86
Lithuania	79-85	86
Luxembourg	31-87	

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Madagascar	45-54, 56, 58-68, 69 (C159; R168), 70, 79	55, 69 (R167), 71, 72, 74, 75, 76, 77, 78, 80, 81, 82, 83, 84, 85, 86
Malawi	49-81, 87	82, 83, 84, 85, 86
Malaysia	41-76, 77 (C170; C171; R177; R178), 78-83, 85, 85-87	77 (P089), 84
Mali	44-78	79, 80, 81, 82, 83, 84, 85, 86
Malta	49-82, 84 (C178; C179; C180; P147)	83, 84 (R185; R186; R187), 85, 86
Mauritania	45-80	81, 82, 83, 84, 85, 86
Mauritius	53-85	86
Mexico	31-83	84, 85, 86
Republic of Moldova	79-81, 82 (C176; R183), 83, 85-86	82 (P081), 84
Mongolia	52-81	82, 83, 84, 85, 86
Morocco	39-76, 79, 85	77, 78, 80, 81, 82, 83, 84, 86
Mozambique	61-82, 86	83, 84, 85
Myanmar	31-86	87
Namibia	78-83, 85	84, 86
Nepal	51-81, 83, 85	82, 84, 86
Netherlands	31-85	86
New Zealand	31-86	
Nicaragua	40-86	
Niger	45-82	83, 84, 85, 86
Nigeria	45-79, 81-82	80, 83, 84, 85, 86
Norway	31-86	
Oman	81-83	84, 85, 86
Pakistan	31-80	81, 82, 83, 84, 85, 86
Panama	31-87	
Papua New Guinea	61-65	66, 67, 68, 69, 70, 71, 72, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86
Paraguay	40-84	85, 86

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Peru	31-83, 86	84, 85
Philippines	31-83, 84 (C179; R186), 86	84 (C178; C180; P147; R185; R187), 85
Poland	31-87	
Portugal	31-86	
Qatar	58-85	86
Romania	39-86	
Russian Federation	37-86	
Rwanda	47-79, 81	80, 82, 83, 84, 85, 86
Saint Kitts and Nevis	–	83, 84, 85, 86
Saint Lucia	–	66, 67, 68, 69, 70, 71, 72, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86
Saint Vincent and the Grenadines	86	82, 83, 84, 85
San Marino	69-85	86
Sao Tome and Principe	68-76	77, 78, 79, 80, 81, 82, 83, 84, 85, 86
Saudi Arabia	61-86	
Senegal	44-78	79, 80, 81, 82, 83, 84, 85, 86
Seychelles	63 (C148; R156), 64, 87	63 (C149; R157), 65, 66, 67, 68, 69, 70, 71, 72, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86
Sierra Leone	45-61, 62 (C145; C147; R153; R155)	62 (C146; R154), 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86
Singapore	50-84	85, 86
Slovakia	80-83, 86-87	84, 85
Slovenia	79-83, 84 (C179)	84 (C178; C180; P147; R185; R186; R187), 85, 86
Solomon Islands	74	70, 71, 72, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Somalia	45-75	76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86
South Africa	31-82	83, 84, 85, 86
Spain	39-62, 63 (C148; R156), 64-74, 75 (C167; R175), 76-79, 82, 85	63 (C149; R157), 75 (C168; R176), 80, 81, 83, 84, 86
Sri Lanka	31-81, 82 (C176; R183), 83	82 (P081), 84, 85, 86
Sudan	39-80	81, 82, 83, 84, 85, 86
Suriname	61-80	81, 82, 83, 84, 85, 86
Swaziland	60-77	78, 79, 80, 81, 82, 83, 84, 85, 86
Sweden	31-83	84, 85, 86
Switzerland	31-87	
Syrian Arab Republic	31-65, 67-69, 71-76	66, 70, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86
Tajikistan	81-83	84, 85, 86
United Republic of Tanzania	46-65, 67 (C154; R163), 69-71, 76, 77 (C170; R177), 82 (P081)	66, 67 (C155; C156; R164; R165), 68, 72, 74, 75, 77 (C171; P089; R178), 78, 79, 80, 81, 82 (C176; R183), 83, 84, 85, 86
Thailand	31-82	83, 84, 85, 86
The former Yugoslav Republic of Macedonia	80-82	83, 84, 85, 86
Togo	44-85	86
Trinidad and Tobago	47-85	86
Tunisia	39-86	
Turkey	31-86	
Turkmenistan		81, 82, 83, 84, 85, 86
Uganda	47-80	81, 82, 83, 84, 85, 86
Ukraine	37-86	
United Arab Emirates	58-83, 84 (C178; C179; C180; R185; R186; R187), 85, 86	84 (P147)
United Kingdom	31-85	86

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
United States	31-87	
Uruguay	31-79, 81, 82 (P081), 84	80, 82 (C176; R183), 83, 85, 86
Uzbekistan	–	80, 81, 82, 83, 84, 85, 86
Venezuela	31-70, 71 (C160; R170; R171), 72, 74 (R173), 75 (C167; R175), 76, 77 (C170; R177), 78 (R179), 80, 82 (C176; R183)	71 (C161), 74 (C163; C164; C165; C166; R174), 75 (C168; R176), 77 (C171; P089; R178), 78 (C172), 79, 81, 82 (P081), 83, 84, 85, 86
Viet Nam	33-86	
Yemen	49-72, 75	74, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86
Zambia	49-82	83, 84, 85, 86
Zimbabwe	66-83, 84 (C178; C179; P147; R185; R186), 85-86, 87 (C182)	84 (C180; R187), 87 (R190)

Appendix II. Overall position of member States as of 10 December 1999

Sessions at which decisions were adopted	Number of States in which, according to information supplied by the government:			Number of States Members of the Organization at the time of the session
	all the texts have been submitted	some of these texts have been submitted	none of these texts have been submitted (including cases in which no information has been supplied by the government)	
31 (June 1948)	59	1		60
32 (June 1949)	60	1		61
33 (June 1950)	63	–*		63
34 (June 1951)	64			64
35 (June 1952)	66			66
36 (June 1953)	66			66
37 (June 1954)	69	–*		69
38 (June 1955)	68	1		69
39 (June 1956)	75	1		76
40 (June 1957)	79			79
41 (April/May 1958)	80			80
42 (June 1958)	80			80
43 (June 1959)	81			81
44 (June 1960)	85			85
45 (June 1961)	101			101
46 (June 1962)	102			102
47 (June 1963)	108			108
48 (June 1964)	110			110
49 (June 1965)	114			114
50 (June 1966)	115			115

Sessions at which decisions were adopted	Number of States in which, according to information supplied by the government:			Number of States Members of the Organization at the time of the session
	all the texts have been submitted	some of these texts have been submitted	none of these texts have been submitted (including cases in which no information has been supplied by the government)	
52 (June 1968)	117	–*	1	118
53 (June 1969)	120	1		121
54 (June 1970)	119	1		120
55 (October 1970)	117	1	2	120
56 (June 1971)	120			120
58 (June 1973)	121	2		123
59 (June 1974)	124		1	125
60 (June 1975)	124	1	1	126
61 (June 1976)	130		1	131
62 (October 1976)	127	1	3	131
63 (June 1977)	127	5	2	134
64 (June 1978)	131	3	1	135
65 (June 1979)	133		4	137
66 (June 1980)	133	–*	9	142
67 (June 1981)	132	4	7	143
68 (June 1982)	136	2	9	147
69 (June 1983)	137	3	8	148
70 (June 1984)	136	–*	13	149
71 (June 1985)	136	3	10	149
72 (June 1986)	138		11	149
74 (September 1987)	133	2	14	149
75 (June 1988)	128	8	13	149
76 (June 1989)	130	–	17	147
77 (June 1990)	117	6	21	

Sessions at which decisions were adopted	Number of States in which, according to information supplied by the government:			Number of States Members of the Organization at the time of the session
	all the texts have been submitted	some of these texts have been submitted	none of these texts have been submitted (including cases in which no information has been supplied by the government)	
78 (June 1991)	116	3	30	149
79 (June 1992)	116	4	36	156
80 (June 1993)	117	2	48	167
81 (June 1994)	109	2	60	171
82 (June 1995)	94	9	70	173
83 (June 1996)	86	1	87	174
84 (October 1996)	59	10	105	174
85 (June 1997)	66	2	106	174
86 (June 1998)	48	– *	126	174
87 (June 1999)	14	1	152	174

* At this session the Conference adopted one Recommendation only.

Appendix III. Summary of information supplied by governments with regard to the obligation to submit the instruments adopted by the International Labour Conference to the competent authorities[1]

Article 19 of the Constitution of the International Labour Organization prescribes, in paragraphs 5, 6 and 7, that Members shall bring the Conventions, Recommendations and Protocols adopted by the International Labour Conference before the competent authorities within a specified period. Under the same provisions, the governments of member States shall inform the Director-General of the International Labour Office of the measures taken to submit the instruments to the competent authorities, and also communicate particulars of the authority or authorities regarded as competent, and of the action taken by them.

In accordance with article 23 of the Constitution, a summary of the information communicated in pursuance of article 19 is submitted to the Conference.

At its 267th (November 1996) Session, the Governing Body approved new measures for rationalization and simplification. In this connection, the summarized information will appear in an appendix to the report of the Committee of Experts on the Application of Conventions and Recommendations.

The present summary contains information relating to the submission to the competent authorities of the instruments adopted by the Conference at its 85th (June 1997) and 86th (June 1998) Sessions. Some governments have also provided information on the submission of the instruments concerning the prohibition and immediate action for the elimination of the worst forms of child labour (Convention No. 182 and Recommendation No. 190), adopted at the 87th Session (June 1999).

The period of one year provided for the submission to the competent authorities of the instruments adopted at the 85th Session expired on 19 June 1998, and the period of 18 months on 18 December 1998. Information on the 85th Session is also included in last year's report.

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[1] The summary relates to the instruments adopted at the following sessions of the Conference:

85th Session (1997)

Private Employment Agencies Convention (No. 181)

Private Employment Agencies Recommendation (No. 188)

86th Session (1998)

Job Creation in Small and Medium-Sized Enterprises Recommendation (No. 189)

87th Session (1999)

Worst Forms of Child Labour Convention (No. 182)

Worst Forms of Child Labour Recommendation (No. 190).

The period of one year provided for the submission to the competent authorities of the Recommendation adopted at the 86th Session expired on 18 June 1999, and the period of 18 months will expire on 18 December 1999.

This summarized information consists of communications which were forwarded to the Director-General of the International Labour Office after the closure of the 87th Session of the Conference (Geneva, June 1999) and which could not, therefore, be laid before the Conference at that session.

Albania. The ratification of Convention No. 181 was registered on 30 June 1999.

Austria. The instruments adopted at the 84th and 85th Sessions of the Conference have been submitted to the National Council.

Azerbaijan. The instruments adopted at the 86th and 87th Sessions of the Conference have been submitted to the National Assembly, the Milli Mejlis.

Bahrain. The instruments adopted at the 85th and 86th Sessions of the Conference have been submitted to a competent authority.

Belarus. The Recommendation adopted at the 86th Session of the Conference was submitted to the National Assembly on 29 March 1999.

Belgium. The instruments adopted at the 82nd, 83rd, 84th and 85th Sessions of the Conference were transmitted to Parliament in December 1998.

Botswana. The Recommendation adopted at the 86th Session of the Conference was submitted to Parliament in July 1999.

Brazil. The Convention adopted at the 87th Session of the Conference was submitted to the National Congress on 19 October 1999.

Bulgaria. The Recommendations adopted at the 85th and 86th Sessions of the Conference have been submitted to the National Assembly.

China. The instruments adopted at the 85th and 86th Sessions of the Conference have been submitted to the State Council and to the Permanent Commission of the National People's Congress of the People's Republic of China.

Costa Rica. The instruments adopted at the 86th and 87th Sessions of the Conference were submitted to the Legislative Assembly in September 1999.

Croatia. The instruments adopted from the 80th to the 85th Sessions of the Conference have been submitted to the Labour, Social Policy and Health Committee of the House of Representatives of Parliament.

Cuba. The Recommendation adopted at the 86th Session of the Conference has been submitted to a competent authority.

Czech Republic. The instruments adopted at the 84th, 85th and 86th Sessions of the Conference were submitted to Parliament in January 1999.

Denmark. The instruments adopted at the 84th and 85th Sessions of the Conference have been submitted to the Folketinget.

Dominican Republic. The Recommendation adopted at the 86th Session of the Conference was submitted to the National Congress on 25 May 1999.

Ecuador. The Recommendation adopted at the 86th Session of the Conference was submitted to the National Congress on 8 September 1999.

Egypt. The instruments adopted at the 86th and 87th Sessions of the Conference were submitted to the People's Assembly on 7 December 1998 and 19 October 1999, respectively.

Estonia. The Conventions and Recommendations adopted at the 83rd, 84th and 85th Sessions of the Conference were submitted to Parliament on 9 March 1999.

Ethiopia. The ratification of Convention No. 181 was registered on 24 March 1999. The Recommendation adopted at the 86th Session of the Conference was submitted to a competent authority on 12 July 1999.

Finland. The instruments adopted at the 85th Session of the Conference were submitted to Parliament on 27 November 1998, and the ratification of Convention No. 181 was registered on 25 May 1999.

Ghana. The Recommendation adopted at the 86th Session of the Conference and the Conventions adopted at the 83rd, 84th and 85th Sessions were submitted to Parliament on 1 September 1999.

Guyana. The instruments adopted at the 84th Session of the Conference were submitted to the National Assembly on 17 December 1998.

Indonesia. The instruments adopted at the 85th Session of the Conference were submitted to the House of Representatives on 30 December 1998.

Iraq. The Convention adopted at the 85th Session and the instruments adopted at the 86th and 87th Sessions of the Conference were submitted to a competent authority.

Ireland. The instruments adopted at the 83rd, 84th, 85th, 86th and 87th Sessions of the Conference have been submitted to the two chambers of the Oireachtas (Parliament). The ratification of Conventions Nos. 178, 179, 180 and of the Protocol of 1996 were registered on 22 April 1999.

Jamaica. The Recommendation adopted at the 86th Session of the Conference was submitted to the competent authorities in November 1998.

Japan. Recommendation No. 189 was submitted to the National Diet on 15 June 1999 and the ratification of Convention No. 181 was registered on 28 July 1999.

Jordan. The Recommendation adopted at the 86th Session of the Conference has been submitted to a competent authority.

Korea, Republic of. The Recommendation adopted at the 86th Session of the Conference was submitted to the National Assembly on 20 November 1999.

Lebanon. The Recommendation adopted at the 86th Session of the Conference was submitted to Parliament on 5 October 1999.

Liberia. The Conventions and Recommendations adopted from the 76th to the 86th Sessions of the Conference were submitted to the Chamber of Representatives on 4 December 1998.

Lithuania. The instruments adopted at the 80th, 81st, 82nd, 83rd, 84th and 85th Sessions of the Conference were submitted to the Seimas on 30 December 1998.

Luxembourg. The Recommendation adopted at the 86th Session of the Conference was submitted to the Chamber of Deputies on 16 March 1999. The instruments adopted at the 87th Session of the Conference have also been submitted to the Chamber of Deputies.

Malawi. The ratification of Convention No. 182 was registered on 19 November 1999.

Malaysia. The instruments adopted at the 86th and 87th Sessions of the Conference were submitted to a competent authority.

Republic of Moldova. The Conventions and Recommendations adopted at the 81st, 82nd, 83rd, 85th and 86th Sessions of the Conference have been submitted to Parliament.

Morocco. The ratification of Convention No. 181 was registered on 10 May 1999.

Myanmar. The Recommendation adopted at the 86th Session of the Conference has been submitted to the competent authority.

Netherlands. The ratification of Convention No. 181 was registered on 15 September 1999.

New Zealand. The instruments adopted at the 85th and 86th Sessions of the Conference were submitted to the House of Representatives on 14 December 1998 and 31 May 1999, respectively.

Nicaragua. The Recommendation adopted at the 86th Session of the Conference was submitted to the National Assembly on 1 December 1999.

Norway. The Recommendation adopted at the 86th Session of the Conference was submitted to the Storting (Parliament) on 5 March 1999. The ratification of Conventions Nos. 178 and 179 was registered on 11 June 1999.

Panama. The ratification of Convention No. 181 was registered on 10 August 1999. The Recommendations adopted at the 86th and 87th Sessions of the Conference were submitted to the Legislative Assembly on 6 August 1999.

Peru. The Recommendation adopted at the 86th Session of the Conference was submitted to the Congress of the Republic on 25 February 1999.

Philippines. The Recommendation adopted at the 86th Session of the Conference has been submitted to the House of Representatives and the Senate.

Poland. The Recommendation and the instruments adopted at the 86th and 87th Sessions of the Conference have been submitted to the Sejm.

Portugal. The Recommendation adopted at the 86th Session of the Conference was submitted to the Assembly of the Republic on 1 July 1999.

Romania. The Recommendation adopted at the 86th Session of the Conference was submitted to the House of Deputies and to the Senate on 28 December 1998 and 6 April 1999, respectively.

Russian Federation. The Conventions and Recommendations adopted at the 84th, 85th and 86th Sessions of the Conference have been submitted to the Federal Assembly.

Saint Vincent and the Grenadines. The Recommendation adopted at the 86th Session of the Conference has been submitted to a competent authority.

Saudi Arabia. The instruments adopted at the 84th and 86th Sessions of the Conference have been submitted to a competent authority.

Seychelles. The ratification of Convention No. 182 was registered on 28 September 1999.

Slovakia. The Recommendation adopted at the 86th Session of the Conference was submitted to the National Council on 19 November 1999.

Spain. The ratification of Convention No. 181 was registered on 15 June 1999.

Switzerland. The instruments adopted at the 85th, 86th and 87th Sessions of the Conference have been submitted to Parliament.

Tunisia. The Recommendation adopted at the 86th Session of the Conference was submitted to the Chamber of Deputies on 6 November 1998.

Turkey. The Recommendation adopted at the 86th Session of the Conference was submitted to the Grand National Assembly on 27 June 1999.

Ukraine. The Recommendation adopted at the 86th Session of the Conference has been submitted to a competent authority.

United Arab Emirates. The Recommendation adopted at the 86th Session of the Conference has been submitted to a competent authority.

United Kingdom. The instruments adopted at the 84th Session of the Conference were submitted to Parliament on 29 April 1998, and the instruments adopted at the 85th Session on 17 December 1998.

United States. The instruments adopted at the 85th and 86th Sessions of the Conference were submitted to the Senate and the House of Representatives on 6 November 1998 and 2 July 1999, respectively. Convention No. 182 was ratified.

Uruguay. The instruments adopted at the 84th Session of the Conference were submitted to the General Assembly on 4 March 1998.

Viet Nam. The Recommendation adopted at the 86th Session of the Conference was submitted to the National Assembly on 15 March 1999.

Zimbabwe. The instruments adopted at the 86th and 87th Sessions of the Conference were submitted to Parliament on 8 February and 11 October 1999, respectively.

The Committee has deemed it necessary in certain cases to request additional information on the nature of the competent authorities to which instruments adopted by the International Labour Conference are submitted.

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